

DISCOURSE UPON THE UNION O F

Scotland and England.

K — CONTAINING

- I. A Brief Account of the kind Proposals made to the Scots by the English, in the Reigns of Henry VIII. and Edward VI.
- II. A short History of Treaties on that Head since the Union of the Crowns, shewing that the English Court have insisted on harder Terms since that time.
- III. An Account of the Grievances of Scotland, as to Religion, Liberty and Trade, since the Union of the Crowns.
- IV. Proposals for an Union of the Kingdoms, upon the Plan of Edward VI. which was much the same agreed to by the Scots in the Reign of James VI. reserving to both Kingdoms their Constitution in Church & State, where the Objections against this Union are considered.
- V. Proposals of a Method for preserving the Union upon the Plan of the Treaty of Rippon, agreed to by K. Charles I. and both Kingdoms.
- VI. A Brief View of the Original Rights of the Kingdom of Scotland.

Humbly submitted to the Parliament of
Scotland, By a Lover of his Country.

*Agendo audendo, res Romana crevit, non his Secretis
Consiliis que ruminata vocant. Liv. lib. 22.*

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T H E
P R E F A C E

THE following Sheets are written, without any View of Self Interest by the Author ; therefore he has discharged his Mind with that Freedom, which he conceives every honest Man ought to do, that treats of an Affair of this Importance. When we talk of an Union, we suppose a Preceding Difference, and it will be allowed that the best Way to have Differences Removed, is for the Persons aggrieved to be candid and open-hearted in their Account of what occasions 'em. This the Author has endeavoured in the ensuing Discourse, on the part of *Scotland*, and has advanced nothing as to the Pressures which his Country has laboured under so long, for which he hath not quored his Vouchers, or dare appeal to the General Knowledge of the Nation. This is a Subject that will not admit of taking any side, therefore he flatters no Party, but freely Reprehends what he thinks to have been amiss in either; and can no more approve what Presbyterian Ministers or others acted against the Liberty of their Country in the last Reign; than he can forbear to Censure what the Bishops and their Party did to the prejudice of our Freedom, in those that Preceded. If he be longer and more severe upon the Hierarchies, 'tis because they did our Country the most Mischief; and that he is against Readmiring the Order of Bishops into *Scotland*, he Conceives that there is no Moderate Man, even of that Party, who will blame him : For by the Laws of our Country, the Bishops themselves gave up the *Jus Divinum* of their

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their Order in the Reign of *H. Charles II.* and the Learnedest of that way in the Kingdom of *England*, where they have had the ablest Advocates in the World, durst never positively assert the Divine Right of a Bishop, as an Order distinct from that of a Presbyter, tho many of 'em have Denied it; and in the Statute of Provisors, in the 25th of *Edw. III.* it is asserted, That the Holy Church of *England* was founded in the Estate of Prelacy within that Realm by the King and Parliament. So that since the Legislature of both Nations have delivered their Sense, that Prelacy as at present contended for, is only a Humane Ordinance, and since the Divines of the Prelatical Way are not agreed among themselves, that it is of an higher Original, the Author cannot be blamed to stand in Defense of the Resolve of the Convention of Estates at the Revolution, That Prelates and the Superiority of any Office in the Church above Presbyter, is and has been an Insupportable Burden to the Kingdom of *Scotland*, especially since the Truth of it doth so manifestly appear, by what we have suffered in our Civil Liberty from that Order of Men. And that he is not also for abolishing the the Order of Presbyters, because of the Faults of Presbyters, he thinks it sufficiently justified from this, that that Order is Confess'd to be of Divine Institution by all Christian Churches, who own a Regular, Ordained, and Qualified Ministry to be necessary. Whereas it is not so as to the Office of Prelates, the contrary being asserted by many Learned *Romanists*, and their Order positively declared against by most, if not all of the Foreign Protestant Churches, in their Respective Articles or Confessions of Faith. But so long as that Order is by our Neighbours in *England* thought necessary for their Constitution, the

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most Rigid Covenanters in *Scotland* has nothing to say
against it; nor are they obliged by any thing in the
Solemn League, to endeavour its Subversion there;
without the Call and Invitation of *England*, and would
never have entered into any such League, had they not
been constrained to it in Self-Defence, because *Land*,
and the high Prelatical Party in *England*, Endeavoured
to overthrow the Church of *Scotland*, as is manifest
from the History of those Times.

There Remains but one thing more by way of Pre-
face, and that is, the Author foresees a Storm of Choler
against the following Sheets, from those who asse-
rt a tawring Prerogative in the Prince, without any
regard to the Liberty of the People; and had not
these Mens Weapons been blunted by the Revolution,
which is also the Basis of the present Governement, he
knows he should have passed his Time but very
sorrowfully. But to obviate their Cavils once for all, he
declares that nothing advanced in the following Dis-
course, is intended or meant against the present Con-
stitution, he thinks himself obliged in Conscience, as
much as any Man, to Submit to the Powers that BE;
but at the same conceives himself to have the Right of
all other Subjects, which is humbly to offer his Opinion,
as to those powers, which are not yet in being. And
since it must be owned, that we have neither yet an
Union with *England*, nor have we agreed upon the next
Successor, or Limitations for one; He hopes that
the Aptient Constitution of his Country, justified
by Acts of Parliameet, may be as safely proposed
for a Model, as those of *Turky* or *France* maintained by
the Doctrine of Passive-Obedience, and by Consequence
knows himself safe from all Attacks by Law, but if
any Man attempt him otherwise, he is not much solicitous
about

about the Event, since he has a Witness in his own Breast, that he aims at nothing in the following Discourse, but a happy and lasting Union betwixt the two Nations: and it shall be his continual Prayer, that they may with joint Zeal and Affection Cordially serve Her Majesty, who has been Graciously pleased to renew a Treaty for that End notwithstanding the ill Success of all such Attempts in the Reigns of Her Predecessors.

NOTE, That the Acts of Parliament quoted in the Appendix are the Black Acts, except where it is otherwise mentioned.

A
'DISCOURSE
UPON THE
UNION
OF
ENGLAND & SCOTLAND &c.

Edinburgh, Oct: 5: 1702

My Lord,

SINCE You are pleased to demand my Thoughts concerning the Union of the Kingdoms now on foot, I doubt not but you will allow me to speak my Mind freely in this as well as in other Cases; for I look upon it to be a matter of the greatest Concern to the two Nations, and that on both sides there are many things to be considered, before any successful Progress can be made in that desirable Work.

It particularly concerns us in *Scotland* to act in this matter with the utmost Circumspection; For by the Union of the Crowns, which was rash and improvident on our Part, we have lost so much of our Freedom, Substance and Reputation, that if we don't take more Care of our Interest in the Union of the Nations, we may

may not only be irrecoverably lost as a Sovereign and independent Kingdom, but brought under the Subjection of *England*, without the being allowed the Benefit of Subjects.

I don't speak thus to oppose the Design of an Union, or to dissuade from a Treaty on that Head; For I am fully satisfied, that were the Nations in a Temper fit to Engage the Work, with that Equanimity and Sedateness which the Nature of the thing requites, they might both be made happy by an Union: and such a Scheme might be agreed upon, as would rectify what is amiss in either of our Constitutions, make us impregnable against Usurpations at home, and secure us against Invasions from abroad.

But pardon me, if I express my Fears, that we have not yet arriv'd to see that happy Moment.

My Reasons for it are, that our Neighbours of *England* proposed much fairer Terms to us before the Union of the Crowns, than ever they have done since; & that from the time of K. *James VI*'s Accession to their Throne, to the begining of the present Reign there has been a prevalent Party in that Court, who have been for imposing upon us, in relation both to Church & State; & instead of allowing us a share of any thing of their Constitution, which was better than our own, they have been for obliging us to a compliance with that which was worse than our own. So that, except there be a Change of Temper among our Neighbours as to that matter, it must be allow'd that we have no ground to expect any good from a Treaty of Union. But I shall break off this Epistle, and submit it to your Lordship's Judgment, whether I don't make good the several Parts of my Proposition in the following Discourse:

SECT.

SECT. I.

*That the English Proposed very fair Terms
to us before the Union of the two Crowns.*

WE need not go so far back to prove this; as the time of *K. Inas, Edward the Confessor, and William the Conqueror*, in whose Reigns it was enacted, That Scotsmen should enjoy the Priviledges of *England*, because they stood up as one Man against the Common Enemies of the Island, as may be seen in *Lambards Saxon Laws* *. P. 148. † Part 7th. Nor need we to insist upon the Practice of *Edward III.* who granted the People of that part of *Scotland* which he had subdued by his Arms, the same Priviledges with those of *England*, as may be seen in *Coke's Reports* †; for we may find Instances to prove, That the *English* were kinder in their Proposals before the Union of the Crowns, than they have been since, in the Reigns of *Henry VIII.* and his Son *Edward VI.*

The former in order to bring the Government of the Island under one Scepter, offered his Daughter *Mary* to our *K. James the V.* and to prevent all Difficulty that might happen about the Succession after his Death, he proposed to make King *James* Duke of *York*, and Lord Lieutenant or Deputy Governour of *England* immediately upon the Match, which was to put him actually in possession of the Government, without one Syllable of altering our Constitution, or subjecting us as a Province

Province to England. We may readily Imagine that James V. was enclinable enough to fall in with the Proposal, which was so honourable and advantageous, that the Greatest Prince in Europe would have chearfully embraced it; But the French Court and the Popish Clergy, who equally dreaded the Effects of such a Conjunction, found means to prevent it, which engaged our Nation against their Will in a War with England, and occasioned the Defeat or rather Surrender of our Arms at Solan Mosse, which brought James V. to his Grave, he was so apprehensive that his Nobility had Conspired against him. *Buch. in Vita Jac. 5. Lesly de Reb. gestis Scot. ib. Drummonds History, ibid.*

The second instance is that of Edward VI. who pursuing his Fathers Design of an amicable Union betwixt the two Kingdoms, proposed a Match betwixt himself and our Queen Mary, which had been agreed on in our Parliament in King Henry the VIII's time; but the French and Popish Faction, to whom Breach of Publick Faith was always a Venial Sin, broke that Agreement, and brought on another War with England, which occasioned our shameful but just Defeat at the Battle of Pinky or Musselburgh, wherein the French and Popish party deservedly suffered most.

Notwithstanding this Great Victory, by which the English became possessed of most of the South of Scotland, yet that Excellent Prince K. Edward VI. and his Sage Council, were so far from designing a Conquest of us, or the overturning of our Constitution, that his Uncle the Duke of Somerset, Protector of the Kingdom of England, with the Advice of the Privy Council, published a Declaration to the Effect following.

Tha

That tho it would seem most proper for
 the Scots to sue to us, who are superiors
 in the Field, and Masters of a great part of
 their Realm; yet that our charitable
 Mind and Brotherly Love might be known, We
 do by all Means possible provoke and call you
 to your own Commodity and Profit, as the Father
 does the Son, or the Elder Brother does the
 Younger, and invite you to Amity and Equality,
 because as We inhabit in the same Island, there
 is no people so like one another in Manners,
 Customs and Language. But because some
 Object that we don't seek Equality, nor the
 Marriage, but a Conquest, and that we would not
 be Friends but Lords, altho our Proclamation
 at the last Wars did enough declare the contrary
 Yet here We declare to you and all Christian
 People, to be the Kings Majesty's Mind our
 Masters, by our Advice and Council, not to
 Conquer, but to have in Amity, not to win by
 Force, but to Conciliate by Love, not to Spoil
 and Kill, but to save and Keep, not to dismember
 and Divorce, but to join in Marriage from high
 to low both the Realms, to make of one Isle,
 one Realm, in Love, Amity, Concord, Peace
 and Charity. We offer Love, We offer Equality
 and Amity; We overcome in War and offer
 Peace; We win holus and offer no Conquest;
 We get in your Land, and offer England. What
 can be more offered and more preferred, Than
 Intercourse of Merchandizes, and Interchange of
 Marriages, the abolishing of all such our Laws
 as prohibit the same, or might be Impediment
 to the Mutual Amity? We have offered not
 only to leave the Authority, Name, Title, Right
 or

or Challege of Conqueror, but to receive that
 which is the shame of Men overcome, to leave
 the Name of the Nation, and the Glory of any
 Victory. (if any we have had, or should have
 of you) and to take the Indifferent old Name
 of *Britains* again; because nothing should be
 left on our part to be offered, nothing on your
 part unretused, whereby ye might be inexcusable.
 What Face hath this of Conquest; We intend
 not to disherit your Queen, but to make her
 Heirs Inheritors also of *England*. We seek not
 to take from your Laws nor Customs, but we
 seek to Redress your Oppression, which of divers
 ye do sustain. In the Realm of *England*, divers
 Laws and Customs be according to the Antient
 usage thereof; and likewise *France*, *Normandy* and
Gascoigne have sundry kinds of Orders. Have all
 the Realms and Dominions that the Emperor
 now hath, one Custome and one sort of Laws?
 These vain Fears and Fantasies of Expulsion of
 your Nation, of changing of the Laws, of making
 a Conquest, be driven into your Heads by those
 who indeed had rather you were all Conquered,
 spoiled and Slain, than they would lose any point
 of their Will, of their Desire of Rule, and of
 their Estimation, which they know in quietness
 would be seen what it were, as it were in a Calm
 Water. If we two being made one by Amity, be
 most able to defend us against all Nations; and
 having the Sea for the Wall, mutual Love for
 Garison, and GOD for Defence, should make so
 Noble and well agreeing Monarchy, that neither
 in Peace we may be ashamed, nor in War afraid
 of any Worldly or Foreign Power: Why should
 not ye be as desirous of the same, & have as much
 Cause

Cause to Rejice at it as We? And for a more
 sure Proof and plainer Token of the good Mind
 and Will which we bear un o you, that which
 never yet was granted to Scotland in any League,
 Truce or Peace betwixt England and Scotland;
 because ye shall have Proof of the beginning of
 Love and Amity of both the Realms, the King's
 Highness considering the Multitude of them
 which are come to his Majesties Devotion, and
 of them that be Well willers and Aiders of this
 Godly Enterprize, hath by our Advice and
 Counsel granted, and by these Presents doth
 grant, That from henceforth all manner of Mer-
 chants and other Scottmen, who will enter their
 Names with one of the Wardens of the Marches
 and there profess to take part with us, in this
 before named Godly purpose may Lawfully and
 without any Trouble and Vexation, enter into
 Port, Creek or Haven of England, and there use
 Traffick of Merchandize, buy and sell, bring in
 the Commodities of Scotland, and take and carry
 forth the Commodities of England, as Liberally
 and as freely, and with the same and none other
 Customs therefore, than Englishmen, and the
 King's Subjects do at this present. *Holinsbed, History
 of England, Vol. III. p. 998.*

It must be owned that this was a very generous
 Proposal from a Conqueror; but the Popish and
 French Faction, who have ever been Enemies to
 the Union of the two Nations, made it ineffectual,
 and brought us under a Yoke of French Tyranny,
 which did so much incense the People of Scotland,
 that when they set about the Reformation, which
 they did to the purpose, some few years after,
 they

they pulled up the Hierarchy by the very Foundations, and reduced the Ecclesiasticks, who had then one third of the Kingdom in their possession, to their Antient Dependence upon the State, as to their Maintenance and Benefices.

These Instances make it plain, that the Proposals of England for Uniting the Nations were very Generous and Kind before the Union of the Crowns.

S E C T. II.

That their Proposals since the Union of the Crowns have not been so kind, prov'd by the following History of the Trearys of Union since.

IN March 1604. K. James VI. mov'd the Parliament of England for an Union betwixt the two Kingdoms, that as they were made one in the Head, so among themselves they might be inseparably conjoin'd, and all Memorie of by-past Divisions extinguish'd. The Motion took well at first, and seem'd to be generally desired by both Nations. The Parliaments of both appointed the Commissioners, the English 44 in number, and the Scots 30: Of the English any 8 of the Lords, and any 20 of the Commons were impowred to treat with the Scots; and of them any 20 were impowred to treat with the English Commissioners.

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The Acts of Parliament empowering them to meet and treat, were as follows.

The Scots A C T.

FOrasmickle as it hath pleas'd his most Excellent Majestie, acknowledging the unspeakable Favour, wherewith the Divine Providence of the most High hath Blessed him by the oft-wished, but hardly expected Conjunction of two so auncient and lang discordant Kingdoms, maist earnestlie to desire an Established continuance of the samen; That as by Lawful Succession they are in the Head, so in the Body and every Member thereof they may be so inseperable conjoined, as all after coming Ages should find the Sweetness of the Peace, Wealth and Felicite; Which, by the perfite Accomplishment thereof, may continue to the Wairds end. And his most Excellent Majestie, although absent in person, (from his most auncient and Native Kingdom) yet present by his Princely power, Fatherly Care, and prudent Commandements, daily directed to his most humble and obedient Subjects of the Kingdom, having laid before them the great Blessing that an constant and Friendly Conjunction with their Neighbour Country of England, now United by Alledgeance and Loyal Subjection in his Majesties most Royal person, wald bring to them and their posteritie, and therewith out of his maist Loving and accustomed Princely regard, to their inestimable Joy and Comfort, Vouchsafing to assure them of his sincere Disposition and clear Meaning no way the foresaid Union, to prejudice or hurt the fundamental Laws, Auncient privileges, Offices and Liberties of this Kingdom.

whereby

whereby not onely the Princely Authority of his most Royal Discend, hath been these many Ages Maintained, but also his peoples securitie of their Land, and Livings, Rights, Liberties, Offices and Dignities preserved. whilk if they should be innovated, sick Confusion should ensue, as it could no more be a free Monarchie. And his Majesties Gracious Intention in Establishing the foresaid Union, is only to alter and Reforme sick indifferent and Temporal Statutes, particular Customes, or special Ordinances, whereby the bygane Remembrance may be Extinguished, and the future Growth prevented of many particular Debates and unhappie Accidents. whilk might hereafter disturb that constant Love and perfect Amitie betwixt both Nations, so Tenderlie Wished be his most Excellent Majestie and sick stedfast and auld Grounds of uniforme Societie, surrogat in their place; That as the present Age is ravished in Admiration with ane so Fortunat beginning, sa that the Posteritie may Rejoice in the Fruition of sick an effectual Union of twa sa Famous and Auncient Kingdoms, miraculously accomplished in the Blude and Person of sa rare ane Monarche.

Therefore, and for the mair perfect accom-
plishing of the Wark foresaid, the Estates Spiritual
and Temporal of this present Parliament, assembled
be vertue of his Majesties Commission under the
Great Seal of Scotland, Declares, Statutes and Or-
daines that the persons following; they are to say;
John Earle of Montrose Lord Chancellor of Scotland;
Frances Earle of Errol, Heigh Constable of Scotland,
George E. Mairshel Great Mairshall of Scotland;
James E. of Glencairne, Alexander E. of Linlithgow
John Arch Bishop of Glasgow, David Bishop of
Rosse,

Rosse, George Bishop of Caithnes, Walter Pryor of Blantyre, Patrick Lord Glames, Alexander Lord Elphinston, Alexander Lord Fyvie, President of the Council of Scotland, Robert Lord Roxburgh, James Lord Abercorne, James Lord Balvairinloch, principal Secretar of Scotland, David Lord Scoone, Sir James Scrymgeour of Dudop Knight. Sir John Cockburne of Ormestoun Kt. Sir John Hume of Coldenknows Kt. Sir David Carnagie of Kinard Kt. Sir Robert Melvill Elder of Murdocarnie Kt. Sir Thomas Hamilton of Binnie Kt. Sir John Leirmonth of Balcomie Kt. Sir Alex. Straton of Lawreston Kt. Sir John Skene of Currihill Kt. Maister John Sharp of Houston Lawer, Maister Thomas Craig Lawer, Henry Neisbit, George Blace, Alexander Rutherford, Maister Alexander Wedderburn Merchants; or any 20 them, shall by vertue of this present Act, have full Power, Commission, Libertie and Authority, to Assemble and Conveen themselves, after the ending of this present Session of this present Parliament, and before the next Session therof, at sike time and in sike place as it shall please his Majestie to appoint, with certain selected Commissioners, Nominat and Authorized by the Parliament of England, according to the Tenour of their Commission in that behalf, to Confer, Treat and Consult upon ane perfite Union of the Realms of Scotland and England, and sike other Matters, Causes and Things whatsoever, tending to his Majesties Honour and Contentment, and to the Weal and Tranquillitie of baith the Kingdoms, during his Majesties Life, (whilk the ever-living God lang continew) and during his Royal Posteritie in blessed Traquillitie to the Warlds end, as upon Mature Deliberation, the greatest part of the saids Commissioners Assembled

as is foresaid, with the Commissioners Authorized by the Parliament of *England*, shall in their Wisedoms think maist Expedient and necessar; not derogating any wyse to any Fundamental Laws, Auncient Priveledges, Offices, Rights, Dignities and Liberties of this Kingdom, as is before said; And that the Commissioners of baith the saids Realms, according to the Tenour of their Commission in that behalf, set down their Proceedings in 3 several Writings, every one of them to be subscribed and Sealed by them; To the end that one of them may be in all Humilie presented to his Majestie, the 2d to be presented to the consideration of the next Session of Parliament for the Realm of *Scotland*; and the third to be offered to the consideration of the next Session of Parliament, for the Realm of *England*; that therefore sike order may be taken therein, as baith the saids Parliaments shall think Expedient for his Majesties satisfaction, and benefite of baith the saids Kingdoms.

The English A C T for the Union
was thus :

WHereas his most Excellent Majestie hath been pleas'd out of his great Wisdom and Judgement, not only to Represent unto us by his own prudent and Princely Speech on the first day of this Parliament how much he desired, (in regard of his inward and gracious Affection to both the Famous and Ancient Realms of *England* and *Scotland*, now united in Allegiance and Loyal Subjection in his Royal Person, to his Majesty and his Posterity for ever) that by a speedy, Mature and sound Deliberation, such a further Union might

might follow, as should make perfect that mutual Love and Uniformity of Manners and Customs which Almighty GOD in his Providence, for the Strength and Safety of both Realms, hath already so far begun in the apparent sight of all the World; But also hath Vouchsafed to Express many Ways, how far it is and ever shall be from his Royal and sincere Care and Affection to the Subjects of England, to alter and innovat the Fundamental and Ancient Laws, Priviledges and good Customs of this Kingdom, whereby not only his Regal Authority, but the Peoples security of Lands, Livings and Priviledges, (both in general and particular) are preserved and Maintained; and by the abolishing or Alteration of the which, it's impossible, but that present Confusion will fall upon the whole State and Frame of this Kingdom.

Forasmuch as his Majesties Humble, Faithful, and Loving Subjects, have not only Conceived the Weight of his Majesties Reasons, but apprehend to their unspeakable Joy and Comfort, his plain, clear and Gracious Intention, to seek no other Changes or Alteration; but of such particular, Temporary or Indifferent manner of Statutes and Customs, as may both prevent and extinguish all and every future Questions or unhappie Accidents, by which the perfect and constant Love, and Friendship, and Quietness, between the Subjects of both the Realms aforesaid, may be Completed and Confirmed; and also perform and accomplish that Real and Effectual Union already Inherent in his Majesties Royal Blood and person, and now desired by his Majestie to be performed and brought to an end for the Weal of both Kingdoms, by this course following.

Be

Be it therefore Enacted by the King's most Excellent Majesty, by and with the Assent & Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That *Tho. Lord Ellesmere*, *Ld Chancellor of England*, *Tho. Earl of Dorset*, *Ld Treasurer of England*, *Charles Earl of Nottingham*, *Ld High Admiral of England*, *Henry E. of Southampton*, *William E. of Pembroke*, *Henry E. of Northampton*, *Richard Bishop of London*, *Tobay Bishop of Duresme*, *Anthony Bishop of St. Davids*, *Robert Ld Cecil*, *Principal Secretary to his Majesty*, *Edward Ld Zouch*, *Lord President of Wales*, *William Ld Monteagle*, *Ralph Ld Eure*, *Edmund Ld Sheffield* *Lord President of the Council in the North*, *Lords of the Higher House of this present Parliament* and *Tho. Ld Clintoun*, *Robert Ld Buckhurst*, *Sir Francis Hastings Kt.* *Sir John Stanhope Kt.* *Vice Chamberlain to the King's Majesty*, *Sir John Herbert Kt.* *2d Secretary to his Majesty*, *Sir George Carew Kt.* *Vice Chamberlain to the Queen's Majesty*, *Sir Tho. Strickland Kt.* *Sir Edward Stafford Kt.* *Sir Henry Nevil of Berkshire Kt.* *Sir Richard Bulkeley Kt.* *Sir Hen. Billingsley Kt.*, *Sir Daniel Dun Kt.* *Dean of the Arches*, *Sir Edward Hobby Kt.* *Sir John Savile Kt.* *Sir Robert Wroth Kt.* *Sir Tho. Challoner Kt.* *Sir Robert Maunsel Kt.* *Sir Thomas Ridgeway Kt.* *Sir Tho. Holcroft Kt.* *Sir Tho. Hesketh Kt.* *his Majesties Attorney of the Court of Wards and Liveries*, *Sir Francis Bacon Kt.* *Sir Lawrence Tanfield Kt.* *Serjeant at Law*, *Sir Henry Hubberd Kt.* *Serjeant at Law*, *Sir John Bennet Kt.* *Doctor of the Laws*, *Sir Henry Withrington*, *Sir Ralph Gray* and *Sir Thomas Lake Knights*, *Robert Askewith*, *Tho. James* and *Henry Chapman Merchants*, *Kts. Citizens and Burgessees of the*

the House of Commons in this present Parliament, (Commissioners selected and Nominated by Authority of this present Parliament) or any eight or more of the said Lords of the said Higher House, and any 20 or more of the said Knights, Citizens and Burgesses of the said House of Commons, shall by force of this Act, from and after the end of this present Session of Parliament, have full Power Liberty, Commission and Authority, at any time, or times, before the next Session of this Parliament, to Assemble and meet, and thereupon to Treat and Consult with certain selected Commissioners to be Nominated and Authorized by Authority of the Parliament of the Realm of Scotland, according to the Tenour or Purport of their Authority or Commission in that behalf, of and concerning such an Union of the said Realms of England and Scotland, and concerning such other Matters, Causes and Things whatsoever, as upon Mature Deliberation and Consideration, the greatest part of the said Lords of the Higher House, which shall be so assembled as is aforesaid, and the greatest part of the saids Knights, Citizens and Burgesses of the said House of Commons, which also shall be so Assembled as is aforesaid, and the Commissioners to be Nominated and Authorized as is aforesaid by the Parliament of the Realm of Scotland, according to the Tenour and Purport of their Authority or Commission in that behalf, shall in their Wisdoms think and deem convenient and necessary for the Honour of his Majesty, and the Weal and Common Good of both the saids Realms, during his Majesties Life, (which Almighty GOD long preserve) and under all his Royal Progeny and Posterity for ever. Which Commissioners of
both

both the said Realms, shall according to the Tenour or Purport of their said Authorities or Commissions in that behalf, Reduce their doings and Proceedings therein into Writings or Instruments Tripartite, every part to be subscribed & sealed by them. To the end, that one part thereof may in all humbleness be presented to his Most Excellent Majesty, the 2d part thereof to be offered to the consideration of the next Session of this Parliament for the Realm of England, and the 3d to be offered to the Consideration of the next Parliament for the Realm of Scotland, that thereupon such further Proceedings may be had, as by both the said Parliaments shall be thought fit and necessary for the Weal and common Good of both the said Realms. 10, Jac. 1- cap. 2,

They meet accordingly at *Westminster*, and agreed on the following Articles.

Articles of Union.

IT is agreed by the Commissioners of England and Scotland, to be mutually proponed to the Parliament of both Realms at the next Sessions, that all Hostile Laws made and Conceived expressly, either by England against Scotland, or Scotland against England, shall in the next Sessions be abrogated and utterly extinguished.

It is also agreed, that all Laws, Customs and Treaties of the Border betwixt England and Scotland, shall be declared by a general Act to be abrogated

Spotswood's History, P. 481.

brogated and abolished, and that the Subjects on either part shall be governed by the Laws and Statutes of the Kingdoms where they dwell, and the Name of the Borders Extinguished.

And because by abolishing the Border-Laws and Customs it may be doubted; that the Executions should cease upon those Sentences that have heretofore been given by the opposite Officers of those Borders, upon Wrongs committed before the Death of the Late Queen of happy Memory; It is thought fit, that in case the Commissioners or Officers to be appointed by his Majesty before the time of the next Sessions of Parliament, shall not procure sufficient Redress of such filled Bills and Sentences, that then the said Parliaments may be moved to take such Order, as to their Wisdoms shall seem convenient, for Satisfaction of that which hath been decerned by some Officers, as also how Disorders and Insolencies may be hereafter represented, and the Country which was lately of the Border kept in Peace and Quietness in time to come. As likewise to prescribe some Orders, how the Pursuits of former Wrongs, preceeding the Death of the late Queen, and since the last Treaty of the Borders, in the Years 1596 and 1597, which have never as yet been moved, may be continued and prosecuted to a definitive Sentence.

And forasmuch as the next Degree to the Abolition of all Memory of Hostility, is the participation of mutual Commodities and Commerce; it is agreed, i. Concerning Importation of Merchandize into either Realm from Foreign Parts, That whereas certain Commodities are wholly prohibited by the several Laws of both Realms, to be brought into either of them by the Natives themselves,

themselves, or any other; The said Prohibitions shall now be made mutual to both, and neither an *English* man bring into *Scotland*, or a *Scots* man into *England*, any of these prohibited Wares and Commodities: Nevertheless if the said Commodities be made in *Scotland*, it shall be lawful to bring them out of *Scotland* into *England*, and so reciprocally of the Commodities made in *England*, and carried to *Scotland*.

Whereas a doubt has been conceiv'd against the equal Communication of Trade betwixt *English* and *Scots* Subjects in matter of Importation, grounded upon some Inequality of Priviledges which the *Scots* are reported to have in foreign Parts, and namely in *France*, above the *English*, whereby the *English* might be prejudged; And that after a very deliberate Consideration had of the said supposed Inequalitys, both private and publick Examination of divers Merchants of either side touching all Liberties, Immunities, Priviledges, Imposts and Payments on the part of the *English* and on the part of the *Scots*, either at *Bordeaux* for their Trade of Wines, or in *Normandy* or any other parts of *France* for other Commodities it appear'd that in the Trade of *Bordeaux* there was and is so little difference in any advantage of Priviledges or Immunities, or in the Imposts and payments, all being Reckon'd and well weighed on either side, as it could not justly hinder the Communication of Trade. In the Trade of *Normandy* likewise, or any other parts of *France*, the advantage that the *Scots* Subjects by their Priviledge is acknowledged to have is such, as without much difficulty may be Reconcil'd and Reduc'd to an Equality with the *English*, by such means as is hereafter

hereafter declared. It is agreed that *Scots-men* shall be free for Transporting of Wine from *Bordeaux* into *England*, paying the same Customs and Dutys, that *Englishmen* do pay, and the *Englishmen* shall be likewise free for Transporting of Wine and other Commodities from *Bordeaux* into *Scotland*, paying the same Customs and Duties that *Scotsmen* pay there.

And likewise for clearing and resolving the Doubts touching the advantage, the *Scots* are suppo'd to have above the *English* in buying and Transporting the Commodities of *Normandy*, and of other parts of the Kingdom of *France*, (excepting the buying of Wine in *Bordeaux*, which is already determin'd) it is agreed that there shall be sent some meet and discreet persons into *France*, two for either side, to take perfect notice of any such advantage as either the *English* have above the *Scots*, or the *Scots* above the *English*, in buying or Transporting of any Commodities of *Normandy*, or any parts of *France* (excepting the Wine of *Bordeaux*) as the said Persons shall find the advantage to be; so for making the Trade equal, the Custom shall be advanc'd to the King in *England* and *Scotland*. And for part of those that have the advantage, and according to the proportion of the said advantage, the advancement of the Custom to continue no longer than the Privilege of having such advantage, shall continue; and that generally for all other Trade from any Parts, the *English* and *Scots* Subjects, each in others Country, shall have Liberty of Importation as freely as any of the Native Subjects themselves, having special Privilege.

Next concerning Exportation, it is agreed that

all such Goods as are prohibited and forbidden to *Englishmen* themselves, to be Transported out of *England* to any Foreign Part, the same shall be Unlawful for any *Scotish* Men or any other to Transport to any Foreign Nation beyond Sea, under the same Penalties and Forfeitures the *English* are subject to, and Reciprocally that forth of *Scotland* no *Englishmen* shall Transport to any Foreign Part the Goods or Commodities that are prohibited in *Scotland* to *Scotsmen* themselves. Nevertheless such Goods and Commodities and Merchandizes as are licens'd to *Englishmen* to Transport out of *England* to any Foreign Part, the same may be likewise Transported by *Scotsmen* thither, they certifying their going into Foreign Parts, and taking a Cocquet accordingly, and paying the Ordinary Custom that *Englishmen* do pay themselves at the Exporting of such Wares. The like Liberty to be for *Englishmen* in *Scotland*.

As for the Native Commodities which either of the Countries do yield, and may serve for the use and Benefite of the other, It is agreed that mutually there may be Transported forth of *England* to *Scotland*, and forth of *Scotland* to *England*, all such Wares as are neither of the Growth or Handy Work of either of the said Realms, without payment of any Impost, Custom or Exaction, and as freely in all Respects as any Wares may be Transported either in *England* from part to part, or in *Scotland* from part to part; Excepting such particular sorts of Goods and Merchandizes as are hereafter mentioned, being Restrained for the proper and Inward use of each Country. And for that purpose it is declared, That both in the Communication of Benefit and Participation of the Native

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Native Commodities of the Country with the other, there shall be Specially Reserv'd and Excepted the sorts hereafter specified, that is to say; Wool, Sheep, Sheepfell, Cattle, Leather, Hides, and Linnen-yarn, which are Specially Restrained within each Country, not to be Transported from the one to the other; Excepting also and Reserving to the *Scotsmen* their Trade of Fishing within the *Loches, Firthes and Bayes*, within Land, and in the Seas within 14 Miles of the Coasts of the Realm of *Scotland*, where neither *Englishmen* nor any Strangers have us'd to Fish, and so Reciprocally in the point of Fishing in behalf of *England*. All which Exceptions and Restrictions are not to be understood or mention'd in any for a Mark or Note of Separation, but only as Matters of Policy and Conveniency for the several Estates of each Country.

Furthermore it is agreed, That all Foreign Wares to be Transported forth of *Scotland* to *England*, or out of *England* to *Scotland*, by any of the Kings Subjects of either Kingdoms, having at their first entry once paid Custome in either of the Kingdoms, shall not pay outward Customs therein afterwards, save only inward Custom at the Port, wherennto they shall be transported: But the Owner of the Goods, or the Factor or Master of the Ship, shall give Bond not to Transport the same into any Foreign Parr.

It is also agreed, That *Scotsmen* shall not be debarred from being Associates into any *English* Company of Merchants, as Merchant Venturers or others, upon such conditions as any *Englishman* may be admitted, And so Reciprocally for *Englishmen* in *Scotland*.

It is nevertheless agreed by mutual Consent, and so to be understood, that the mutual Liberty aforesaid of Exportation and Trade in each part from the one part to the other, shall serve for the inward use only, of either Realm; and Order taken for Restraining and prohibiting the Transportation of the said Commodities into Foreign parts, and for due Punishment of those that shall Transgress in that behalf.

And for the better Assurance and Caution therein. It is agreed that every Merchant so offending shall Forfeit his Goods; The Ships wherein the saids Goods shall be Transported, Confiscated; The Customers, Searchers and other Officers of the Custom whatever, in case of consent or Knowledge on their part, to lose their Offices and Goods, and their Bodies to be Imprison'd at his Majesty's pleasure. Of which Escheats and Forfeitures, two parts shall appertain to his Majesty, if the Customs be unfarm'd, and the 3d to the Informer: and if the Customs be Farm'd, one third of the Forfeiture shall belong to his Majesty, a 3d to the Farmer, and the other 3d to the Informer. The Trial of the Offence to be summar in either Country in the Exchequer Chamber by Writ, sufficient Witnesses, or Oath of Party, or before the Justice by Jury or Assize; and his Majesty's Officers in either Country to Convene with the Complainers that have interest in the pursuit.

As also for the more Surety that there shall be no Transportation of such Goods, It is agreed that at the Shipping of all such native Commodities there be taken by the Customer of the Port where the Goods and Wares are Embark'd, a Bond or Obligation

Obligation subscribed by the Owner of the said Goods, and Master of the Ship, by the Owner, if he be present, and in case of his Absence, by the Master of the Ship and Factor, or Party that ladeth the same: Which Bond shall contain a Sum of Money answerable to the value of the Goods, with Condition of Relieving the Party oblig'd, and discharging him of the said Bond in case Return be made of a due Certificate to the Custome where the Goods were laden, from any part within *England* or *Scotland*. The Certificate to be subscribed and sealed by the Officers of the Customs of the Port where the said Goods shall arrive and be unladen; or if there be no such Officers there, by the Chief Magistrate and Town Clerk of that Harbour or Town, under their Hand or Seal.

It is farther agreed touching the indifferent Fraighting of Commodities either in English or Scots Bottoms, that Englishmen and Scotsmen Freight and Lade their Goods each in others Ships and Bottoms indifferently, paying only English and Scots Custome, notwithstanding any contrary Laws or Prohibitions. And that a Proposition be made to the Parliament of *England* for establishing some good Orders for upholding and Maintaining the great Fishing of *England*; As likewise that a Proposition be made to the Parliament of *Scotland* for making their Shipping more proportionable in Burthen to the Shipping of *England*, the better to serve for Equality of Trade, and a Common Defence for the whole Isle.

And because it's Requisite that the mutual Communication aforesaid be not only extended to Matter of Commerce, but to all other Benefits and Privileges

Privileges of Natural born Subjects; It is agreed that an Act be proponed to be pass'd in manner following: That all the Subjects of both Realms Born since the Decease of the late Queen, and that shall be born hereafter under the Obedience of his Majesty and of his Royal Progeny, are by the Common Laws of both Realms, and shall be forever enabled to obtain, Succeed, Inherit and Possess all Goods, Lands and Chattles, Honours, Dignities, Offices, Liberties, Priviledges and Benefices Ecclesiastical or Civil, in Parliament and all other places of the Kingdoms, and every one of the same, in all Respects and without any Exception whatsoever, as fully and amply as the Subjects of either Realm Respectively might have done, or may do in any sort within the Kingdom where they are Born.

Farther, Whereas his Majesty out of his great Judgment and Providence hath not only profess'd in publick and private Speech to the Nobility and Council of both; but hath also Vouchsafed to be Contented that, for a more full Satisfaction and Comfort of all his Loving Subjects, it may be Compriz'd in the said Act, that his Majesty meaneth not to confer any Office of the Crown, any Office of Judicature, Place, Voice or Office in Parliament of either Kingdom, upon the Subjects of the other, Born before the Decease of the late Queen, untill Time and Conversation have encreas'd and accomplish'd an Union of the said Kingdoms, as well in the Hearts of all the People, and in all Conformity of Laws and Policies in these Kingdoms, as in the Knowledge and sufficiency of particular Men, who being continually employed in such Authorities, could no way be able, much less acceptable

acceptable, to Discharge such Duties belonging to
 them: It is therefore Resolv'd by us the Com-
 missioners aforesaid, not only in regard of our
 Desires and Endeavours to further the speedy
 Conclusion of this happy Work intended, but
 also as a Testimony of our Love and Thankful-
 ness for his gracious Promise, on whose sincerity
 and Benignity we build our full Assurance, even
 according to the Inward Sense and Feeling of our
 own Loyal and hearty Affections, to obey and
 please him in all things Worthy the Subjects of so
 Worthy a Sovereign, that it shall be desired of both
 the Parliaments, to be enacted by their Authority,
 that all the Subjects of both Realms, Born before
 the Decease of the late Queen, may be enabled and
 Capable to Acquire, Purchase, Inherit, Succeed,
 use and dispose of all Lands, Goods, Inheritances,
 Offices, Honours, Dignities, Liberties, Priviledges,
 Immunities Benefices and Preferments whatsoever,
 each Subject in either Kingdom, with the same
 Freedom and as Lawfully and Peaceably as the very
 Natural and born Subjects of either Realm, where
 the said Rights, Estates and Profits are establish'd,
 notwithstanding whatsoever Law, Statute, or former
 Constitutions heretofore in force to the contrary;
 Other than to acquire, Possess, Succeed or Inherit
 any Office of the Crown, Office of Judicatory, or any
 Voice, Place or Office in Parliament, all which
 shall Remain free from being claim'd, held, or
 enjoy'd by the Subjects of the one Kingdom within
 the other, Born before the Decease of the late
 Queen, notwithstanding any Words, Sense or
 Interpretation of the Act, or any circumstance
 thereupon depending, untill there be such a perfect
 and full Accomplishment of the Union, as is desired
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mutually by both the Realms. In all which points of Reservation, either in Recital of the Words of his Majesties Sacred Promise, or in any Clause or Sentence before specified, from enabling them to any of the aforesaid places or Dignities, it hath been and ever shall be so far from the thoughts of any of us, to presume to alter or impair his Majesties Prerogative Royal (who contrariwise vdo with all Comfort and Confidence depend herein upon the Gracious Assurance which his Majesty is pleas'd to give in the Declaration of his so Just and Princely care and favour to all his People) as for a farther laying open of our clear and dutiful Intentions towards his Majesty in this and in all things else which may concern his Prerogative, we do also herein profess and declare, that we think it fit, there be inserted in the Act to be proponed and passed in expresse Terms, a sufficient Reservation of his Majesties Prerogative Royal, to denizate enable and prefer to such Offices, Honours, Dignities and Benefices whatsoever in both the said Kingdoms, and either of them, as heretofore excepted in the Preceding Reservation of all English and Scots Subjects, Born before the Decease of the late Queen, as freely, Sovereignly and Absolutely as any of his Majesties most noble Progenitors or Predecessors Kings of England or Scotland, might have done at any time heretofore, and to all other Intents and Purposes, in as ample manner as if no such Act had been, or thought of or mentioned.

And forasmuch as the several Jurisdictions and Administrations of either Realm may be abused by Malefactors, by their own Impunity, if they shall commit any Offence in the one Realm, and afterwards remove their Persons and Abode unto the other; It is agreed that there may be some fit course Advised of
by

by the Wisdoms of the Parliaments for Trial and Proceeding against the Persons of Offenders Remaining in the one Realm, for and concerning the Crimes and Faults committed in the other Realm: And yet nevertheless that it may be Lawfull for the Justice of the Realm, where the Fact is Committed, to Remand the Offender remaining in the other Realm to be Answerable unto Justice in the same Realm where the Fact was Committed; And that upon such Remand made, the Offender shall be accordingly delivered, and all farther Proceeding, if any be, in the other Realm shall cease, so as it may be done without Prejudice to his Majestie, or other Lords in their Escheats and Forfeitures. With Provision nevertheless, that this be not thought necessary to be made for all Criminal Offences, but in special Cases only, as Nauely in the Cases of wilful Murther, falsifying of Moneys, and forging of Deeds, Instruments and Writings, and such other like Cases, as upon further Advice in the said Parliament may be thought fit to be added.

These were the Articles agreed upon, which being Written in severall Scrolls of Parliament, were subscribed and Sealed at Westminster, Decemb. 6. by the Commissioners of both Parliaments, and one thereof presented the same Evening to his Majesty by the Earl of Salisbury, who in Name of the whole number there present, having shewed what Pains they had taken in that Business, and how after many Conferences, they were come to the Resolution contained in that Scroll, besought his Majestie to accept graciously that which was done, and made offer of their best Self Service in perfecting that Work, as they should be Employed.

The King professing a great Content, did especially thank them for Reserving his Prerogative, in the Preferment of Men to Offices and Honours in either Kingdom. For Inequality, said he, of Liberties and Privileges, is not the Way to Effect the Union I desire, Capacity of Offices ought to be equal to both People; but the Moderation of that Equality must be left to me: Neither ought you to suspect that I will offer any manner of Grievance to either of the Countries, nor do any thing that may kindle Emulation among them, considering the Desire I have to see you united in a fast and undissolvable Amity. This said, he Recommended the Prosecution of that Business in the several Parliaments, to their Fidelity and Trust, wishing them to lay aside all Jealousies, needless Fears, and other worse Passions.

But the same Author tells us, *Page 505*: That in the Parliament of *England*, the Matter of the Union received many Crossings, and of all the Articles Condescended upon among the Commissioners, only that was enacted which concerneth the abolishing of Hostile Laws. The King grieved at this exceedingly, and conceiving that the Work should more easily be effected, if a beginning was made in *Scotland*, did call a Parliament in *August*, which was kept by *Lodowick Duke of Lennox*, as Commissioner for his Majesty, the *Earl of Montrose* being then deceased. The Estates, to satisfy the Kings desire, did allow all the Articles concluded in the Treaty, with a Provision, that the same should be in like manner Ratified by the Parliament of *England*, otherwise the Conclusions taken should not have the Strength of a Law. It was also declared, that if the Union should happen to take effect,

effect, the Kingdom notwithstanding should Remain an Absolute and free Monarchy, and the Fundamental Law: receive no Alteration. But the Parliament of *England* either disliking the Union as fearing some prejudice by it to their Estate, or upon some other hidden Cause, did touch no more the Business, and so that good Work, tending to the advantage of both Kingdoms, was left and quite Deserted.

The Archbishop might have said a great deal more, would his Prevaricating Temper in favour of the High Church-men have allowed him; for the Union was not only Deserted, but the Nation of *Scotland* unkindly used in Parliamēt Convocation and Pulpits, as will appear by the following Instances.

1st. Tho the Commissioners for the Union had agreed, That all those Born after the Decease of Queen *Elizabeth* in either Kingdom, under the Obedience of his Majesty and his Royal Progeny, should be enabled to possess all Goods, Lands and Chattels, Honours, Dignities, Offices, Liberties, Privileges, &c. without any Exception whatsoever, as amply as the Subjects of either Realm Respectively might have done, within the Kingdom where they were Born; And tho the Judges after a full Debate in both Houses, delivered it in Parliament, as their Opinion and Resolution in Law in the Case of *Calvin*, that the *Pestinati* of *Scotland* were not Aliens but Natural Subjects; yet the Parliament of *England* would not determine the Case, but adjourned it to the Exchequer Chamber, to be determined there by Common Law.

This was so much harder upon the *Scots*, that their Case had been ruled by former Precedents,

and particularly by the Laws and Practice in the time of *Edward III*, when such as were born in that part of *Scotland*, which he had subdued, were made capable of all the Privileges of the Subjects of *England*, tho they were Ruled and Governed according to the Laws of *Scotland*, and the like Privilege was allowed to those born in the Provinces of *France* subject to the Crown of *England*. Nay this was not all, for the Lord Chief Justice *Coke*, in the 7th part of his Reports, Fol. 28. says, that there was such a Concurrence of Judgments, Resolutions and Rules in the Law Books in all Ages concerning this Case, as if they had been prepared for deciding the point in Question, and that not one Opinion of all the Law Books of *England* was against this Judgment.

There was still a later Instance which made it harder upon the Scots, viz. That in *Michaelmas Term* 13th and 14th R. of *Q. Elizabeth*, as appears by *Dyers Reports*, a Scotsman was brought to Trial in the Queen's Bench for a Rape; and when he demanded that one half of his Jury should be his own Countrymen, as was always allowed to other Foreigners, it was denied him, because the Judges gave their Opinion, That a Scotsman was never accounted a Foreigner in the Kingdom of *England*: so that they were willing to allow us to be Subjects of *England* in Cases of Punishment or Loss, but were Resolved to Treat us as Foreigners in Cases of Reward and Advantage.

Tho one would think that this was a great deal more than enough, yet the Outrages done to our Nation did not stop here, for the Malice of the Highfowen Party discovered it self against us, in the House of Commons, in the Convocation House, and

and in the Palpit. In the first one *Chr. Piggot* had so little Sense, or Respect to the Dignity of the House as to say, That of all the Countries this day Inhabited, *Scotland* is the most Barren, and *Scotsmen* the most perfidious and Barbarous, a People without Religion, and not Worthy to be admitted to Court; That *Englishmen* could have no other Commerce with them, than such as a Judge must have with an Highwaymon, the one to prescribe Punishment, and the other to receive it, they being Traitors in Heart and Blood. In the Convocation one Doctor *Fuller* compared the Union of the two Kingdoms, to the breaking down a Hedge betwixt a Barren and a Fruittul Field, which would set in the Lean Cattle among the Fat, and make all Lean together. An Argument which shewed the Author to be a better Grazier, than a Divine or a Statesman; and bespoke his Fear, that some Body else who better deserved it, might come in with him for a share of his Fat Benefice. But both these were hallowed by a Virulent Sermon of one Doctor *Robinson* at *Pauls-Cross*, who so far forgot his Function, his Audience and his Text, That he fell foul upon the *Scots* in a Virulent Invektive, Calling them a perjured, perfidious and Deceitful Nation. Had not these things been Transmitted to Posterity, by an Author of *Sir Tho. Craig's* Quality, Probity and Opportunity, in his Manuscript *de Unione Regnorum*, Cap. 7. & 8. towards the beginning, and had we not known them Exemplified and outdone in our own time, by slovenly Reflections and scandalous Pamphlets, in the Matter of *Darien* and the Union, it could scarcely be believed, That any People of one Civilized Nation would have so Rudely Treated those of another. Yet *Sir Thomas*

at the same time does the Kingdom of England so much Justice, as to own that the far greater part of them were for the Union, and very much Commends the good Temper, Learning, and other Qualifications of the English Commissioners appointed to Treat with those from Scotland, of which he himself was one. It must be likewise owned, that many of the Greatest Men then in England, as Sir Francis Bacon, the Lord Chancellor Egerton, the Lord Chief Justice Coke, and others appeared for the Union, and that there were very good Treatises Wrote and Published by Englishmen on that Head, as Sir Francis Bacon's Speech in the House of Commons, *His brief Discourse of the happy Union of England and Scotland*; *A Discourse plainly proving the evident Utility and Urgent Necessity of the happy Union of the two Kingdoms*, by John Bristot, Published by his Majesties Approbation; *A Treatise of Union* by J. H. Another intituled, *The Miraculous and happy Union*, and the Lord Chancellor Egerton his Speech about the Postnati. But the High Church Faction Rendered all Endeavours to accomplish that Union Ineffectual. They soon found K. James's Weak side, and knowing that his Inclination to a towering Prerogative carried the Ascendant with him above all other things, they cut out o her Work for him to Employ himself about, than the Union of the Kingdoms, which was to advance his Prerogative in Scotland, to the intire Subversion of our Liberties in Church and State, and Concured with him as Heartily in the one, as they opposed him in the other. The Rancor they had conceived against our Constitution was incurable, because of the Hopes which the English Puritans or Moderate Churchmen had conceived from an Union of the Nations;

and because of our Churches having prevailed with the King to Intercede with *Queen Elizabeth* for the Learned *Cartwright* and other Dissenting Ministers that were persecuted in her Reign, and particularly for the pious Mr. *John Udal*, whom the Faction had got Condemned to Die for Writing a Book, Entituled, *A Demonstration of Discipline*, tho they could not prove it, as appears by the Printed Account of his Trial. So much for the Union of the Nations, and the Success of it in the Reign of *K. James*.

In that of *K. Charles I.* we don't find it to have been once mentioned, for the Faction had so much the Ascendant over that unhappy Prince, as to engage him with more eagerness than they had done his Father, to overturn our Constitution, and endeavour a Conquest of us.

In that of *K. Charles II.* the Parliament of *Scotland* did in 1670 pass an Act, Impowering his Majesty to grant a Commission under the Great Seal of *Scotland*, for such persons as he should think fit to Name, to Treat with Commissioners of *England* about the Union, but with this Proviso, that nothing they agreed upon should stand, except Confirmed by the Parliament of *Scotland*.

When the Commissioners met, the King sent them the five following points to be Considered, as the subject Matter of the Treaty.

1. The preserving to either Kingdom their Laws Civil and Ecclesiastical entire.

2. The Uniting of the two Kingdoms into one Monarchy under his Majesty, his Heirs and Successors, inseparable.

3. The Reducing both Parliaments into one.

4. The

4. The Stating of all Privileges, as to Trade, and other Advantages.

5. The securing the Conditions of the Union: But they were left to their own Method of Debate, and to make such Proposals on each Head, as should occur to them.

It was agreed as a Preliminary, that except all was agreed on, no particular thing resolv'd on should be binding.

When they came to consider the Matter, Sir John Nisbet, one of the Commissioners for Scotland, a Great Lawyer and the King's Advocate, argued that the Union could not be as proposed in the 2^d and 3^d Articles, because they were destructive to the Fundamental Government of the Kingdom, and tended to take away our Parliaments, which he said the Parliament it self could not do, nor were the Commissi: appointed for the Treaty Impowered to divest the Electors of that Power, and alledged an Act Parl. 8. Jac. 6. which declared it Treason to Attempt the Alteration of the Constitution of the Parliament. He alledg'd further that K. James's Commission co Treat, was not of that Nature, and that his Commission ought to be the Rule of the Treaty He added, That in the Union among the Republicks of Greece, each Republick reserved their Sovereignty: And the Earl of Lauderdale said, That it was the like among the United Provinces, the several Kingdoms of Spain, and the 13 Cantons of Switzerland. It was added, That it was the same as to Poland and Lithuania, And as to the Republicks of Greece, They were Represented in their Respective Common wealths, at the General Council of the Amphictyones.

Then as to the Constitution of the Parliament, the
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Commissioners for Scotland Resolutely adher'd to it, that none of the Constituent Members of the Parliament of Scotland should be Excluded from making up the Parliament of Great Britain: For they could not Exclude any of those from whom they had their Authority, but agreed that his Majestie might call together both Parliaments to Consult about the publick Affairs of the Monarchy. There were also Debates amongst 'em about Appeals to Parliament from Courts of Judicature, whose Sentences in Scotland are not questionable but by Parliament; and that it would be an Inconsistency that one part of the Monarchy should be liable to Appeals before the Parliament, and the other not.

As to the Union of both Kingdoms into one Monarchy, the Scots Commissioners would agree to it on no other Terms but in the Posterity of King James VI. in which the English made some difficulty & thought Heirs and Successors enough; but the Scots insisted upon it, and alledged that by the 11th of Hen: VII. an Usurper being Crown'd, was Reputed Lawful Successor in England. This is the Substance of what was Transacted in that Treaty, which continued from the 13th of September 1670, under several Adjournments, till the 14th of November following, when the Scottish Commissioners attended his Majesty, gave him an Account of what had pass'd, and that all they had done was in Obedience to his Majesties Commands, and that in consideration of his Interest and Greatness, they had Condescended, That both Parliaments intirely should be United, and that nothing less could have satisfied the Parliament of Scotland; who had Authorized them. Thus this Treaty broke up, wherein the Earl of Lauderdale tho so far gone in Arbitrary

Principles and Practices ; yet would not abate one Member of our Parliament, or Concur in any thing that might lessen our Honour, or the Security of our Constitution, as an Independant and Sovereign Kingdom : And we find it to be the Opinion of Sir *John Nisbit*, one of the greatest Lawyers ever we had, That they could not do otherwise without incurring the Penalty of High Treason; which it's hop'd will be a sufficient *Caveat* for other Commissioners to take care how they act in the like case: For we find that, according to Sir *John's* Opinion, our Parliament it self cannot alter our Fundamental Constitution without Instructions from their Electors; And therefore in an Arduous case of this Nature, it would seem that according to his Principles nothing can with safety be finally determin'd, even by a *Scots* Parliament, without the previous Consent of the Electors, which cannot be had, till the *Matter* be fairly propos'd and resolv'd on by the Majority of our Barons, Freeholders and Burgesses, at their Respective Meeting for Elections.

In the time of K. *James VII.* there was nothing done in the Union ; but in the Reign of K. *William* and Q. *Mary*, it was again propos'd by our Convention of Estates, who appointed Commissioners to Treat upon that *Matter* with *England* ; to which there was never any Answer return'd, tho his Majesty mention'd it to the *English* Parliament at several other Times.

By all these Instances it appears that the *English* were much more Generous and kind in their Proposals for Uniting the Nations, and seem'd to be much more cordial in it before the Union of the Crowns than they have been since.

S E C T. III.

That ever since that Time to the beginning of this Reign there has been a Prevalent Party in that Court, who have been Imposing upon us in Relation both to Church and State, and instead of allowing us a share in any thing of their Constitution, which was better than our own, they have been for obliging us to a Compliance with that which was worse than our own.

THIS, with the Reason of their having Influence enough to Effect it, will appear by the following Instances.

When our King succeeded to the Throne of England, he knew that those in the Administration there, were no Friends to the Constitution either of our Church or State, and that in order to secure his Favour to their own Party against the Puritans, who conceiv'd great hopes from him because of his being Educated that way, they would Concur with him in any design for enlarging his power in Scotland, that he might bring the Church of our Nation to a Conformity with that of England: And he being by our Constitution kept much short of the high Prerogative which he aim'd at, was as glade to oblige the High Church Party, as they were to oblige him; so that our Affairs were wholly Manag'd by their Advice, and all the chief Posts in our Kingdom fill'd with such Men as the Court of

England knew would be subservient to their designs. The Consequences of this Influence of the *English* Court were ever after so visible upon our whole Administration, that from that time to the beginning of this Reign we have been Treated more like a Province or Conquer'd People than like a free and Independent Nation: This hath been evident in every thing, wherein the Interest of *England*, or perhaps rather the Honour of the Governing Party at Court there, seem'd to Interfere with the Interest of *Scotland*. And in all such Oppressions our own Countrymen that were preferr'd here, or in our Neighbouring Nation by the Court of *England*, have been the principal Instruments.

The truth of this will appear beyond possibility of Contradiction, if we do but glance upon a few Instances in every Reign since the Union of the Crowns.

K. *James VI.* soon after his Advancement to the Throne of *England*, attempt'd and obtain'd an Advancement of his Prerogative in *Scotland*, as may be seen by *Parl. 18. Act. 1.* This was one of the first Proofs we had after the Union of the Crowns of the Design of that Faction at Court, upon our Liberty.

And had it not been for the Influence of our own Noblemen and others that either were in Posts or expected Advancement from Court, and for the Increase of the King's power and Wealth, which put him in a condition to bring our Nation to such a Compliance by Force and Bribery, it is not to be imagined that the Court of *England* could have effected it; for the *Scots*, who had all along Reserv'd to themselves a degree of Liberty beyond any of their Neighbouring Monarchies, and had so late

ly exerted it in dethroning the Mother, would never have been so impolitic, as to advance the prerogative of the Son upon the Increase of his power, which should rather have oblig'd them to Retrench it, had they been at their own liberty. This it's hop'd will be allow'd as one pregnant Instance of the Influence of the Court of England upon our Administration, and that it was a direct Blow at the very Root of our Constitution.

King James having obtained this Point, the next was to get an Act for Restoring the Estate of Bishops to their Temporalities, Dignities, and Honours, and Rescinding all Acts that had been made in their Prejudice, as may be seen by the 2d Act of that same Parliament. This he thought absolutely necessary for pleasing the English Court and promoting his own Designs; for being a Learned and Politick Prince, he had observed that the Estate of Bishops had been the main Supporters of the Pope's Supremacy, and that they frequently maintained the pretensions of the See of Rome, even against their own Princes, and the undoubted Interest of their Native Country; and therefore craftily foreseeing, that if he could put himself in the Pope's

Place which is owned by Sir George
 * Institut. Mackenzie our Sovereigns now are,
 p. 23. the Bishops must be brought to a
 greater Dependance upon the Crown,
 than ever they had upon the See of Rome, and by
 consequence contribute more to support the absolute
 Power of the Prince, than ever they had done
 to maintain the Supremacy of the Pope; and
 herein he was not mistaken in our Scots Bishops:

King James had before this time, to please the
 Court of England, introduced Bishops and an high
 Commission

Commission Court, contrary to the Mind of our Church, and against our standing Laws; but having now *vis & modis*, got the Authority of the Bishops Ratified by the 2d Act of his Parliament in 1606. He made himself more absolute than were ever any of his Predecessors, and by means of the high Commission Court which he renewed and whose Power he enlarged at several times, at last he obtained that which he had been long seeking after, viz. to have the Persons and Estates of his Subjects in his Power, without being tyed up to the Forms of the Common Law; so that this Court was as a good use to support his lawless Prerogative, as the Inquisition was to support the Tyranny of the Court of Rome, and was every whit as arbitrary in its Procedure, and chiefly managed by the two Archbishops.

These new Lord Bishops, that they might testify their Gratitude to the King their Creator, were always among the first who were for Burdening the Country with Taxes, and by their practice, Example and Influence, advanced the Prerogative to such a height, that the King's Will must be obeyed contry to the Law, in all matters Relating to the Government, Discipline and Worship of the Church so that they overturned all the Power which the Law had placed in the Presbyteries, Provincial Synods and General Assemblies of our Church, invaded the Constitution of all those several Judicatories, took away their Freedom of Vote and Debate, packed the General Assemblies and Synods on occasion with such as had no legal Commission to be Members, but were summoned by the King *ad libitum* to serve a Turn, and then they commanded Obedience to their Illegal Canons by Proclamation

mation; and if any Person of what quality soever found fault with this Arbitrary Way of proceeding, they were exposed to the Fury of their High Commission Court.

It is not to be supposed, That the People of Scotland, whose Liberties Civil and Religious were Interwoven with their Constitution, could be brought to submit to this sort of Government, without great Opposition; but what could they do? their King was now become more powerful and Rich than any of his Predecessors, he was influenced by a Court that hated our free Constitution, as much as he did himself; The Chief of our Nobility were either Enterrained at that Court with hopes of preferment, or actually taken off from the Interest of their Country by places and pensions at home; And such as were too Generous to be taken off that way, saw they would but ruine them selves, and do their Country no good by their Opposition, and therefore sat still as Neuters.

In the mean time the Bishops increased in their power, and being not only made Lords of Parliaments, but Lords of the Exchequer, Council, Session and High Commission, they looked down upon the Nobility with Contempt, as 'twas foretold they would, and not onlie disputed Precedency with them in Parliament and else where but accused them as they thought meet to the King, and became so terrible, that they overaw'd the whole Kingdom. The only thing that curbed them, was their Apprehensions of being called to an account by the General Assembly of the Church and the Parliament of the State; and therefore the Court and they durst not admit of a free Meeting of either, but surprized them both by illegal and shorter Sum:

monsthan the Law required; and when they did
 meet, took all the Arbitrary Methods of closeting,
 Bribing, threatening, and Flattering, and were from
 time to time attended by the Guards, to hector
 those that were Refractory into a Submission. Yet
 with all these Precautions, they dared not to ven-
 ture any thing to a free Vote, either in the As-
 sembly at Perth, where they imposed the five
 Articles upon us, or in the Parliament which was
 Sumoned afterwards to confirm Episcopacy and
 those Articles; so that their Design had certainly
 miscarried, and the Matter would have been deter-
 mined against them for all their Closeting, Threat-
 ning and Bribing, but for the Following Methods.
 1st. That contrary to Law, they Discharged the pre-
 senting of any Grievances to the Parliament, but what
 were first allowed by the Council. and signed by the
 King. 2. That in like manner they forbad the Re-
 presentation of any Grievances in Name of the Church.
 3. That when the Parliament was met, they Discharg-
 ed the Private Meetings of any of the Members, to
 consult upon what was to be treated in the House.
 4. That contrary to Promise and the Custom of Parli-
 ament, they Refused to let the House have the perusal
 of what was previously agreed on by the Lords of the
 Articles. 5. That contrary to the uninterrupted Custom
 of parliament in chusing those Lords of the Articles,
 the Bishops illegally withdrew into the Inner House,
 and chose the Temporal Lords of the Articles, whom
 the Court had agreed upon before hand, and those Lords
 again chose the Bishops; and they together chose the
 Barons and Barrows; by which means the Constitution
 of the State, as well as that of the Church, was
 totally Subverted, and our Parliaments made wholly
 insignificant: and as if all this had not been enough,
 they

they brought in amongst us the unknown Custom of voing by Proxies for *English* Titular Lords, and others that were absent; And some of those Proxies were likewise made use of contrary to the Instructions of those that gave them. Besides this they prevailed with several that were not for their purpose to be Absent; No Reasoning was allowed in the House upon the *Matters* propounded; The Officers of State, who by our then Constitution had no Right to Vote, were admitted to give their Votes, The most zealous of the Ministers were Arbitrarily sent out of the City, lest they should have Influenced the Members; The King came down as far as *York*, to overawe them with his Nearness, and yet after all they carried it only by a Scanty Majority.

K. *James VI.* having by these Ways and Means got his Arbitrary Measures Countenanced by the Shadow of a Law, took care to prosecute the Contraveeners with the utmost Rigour, while Papists were favoured and promoted to the Chief Offices of State, Popish Priests acquitted, and legal Prosecutions against them illegally stopped. Nor did our Bishops themselves escape free from some lashes of that Arbitrary Power, which they had set up against others; For they were obliged not only to go to *England* in 1610. to Receive Consecration by the Prelates there, where Bishop *Andrews* affronted them, by putting it to the Question, whether they ought not first to be ordained Presbyters; but the *English* Prelates did at the King's Command, absolve the Marquis of *Huntly* a Papist, whom the *Scottish* Bishops had Excommunicated, and were for imposing all their own Rites and Modes upon the Church of *Scotland*, which Bishop *Cameron* of

Galloway and others, Resented as far as they durst, and Complained of it as a Reviving of the old Pretensions of the Church of England's superiority over the Church of Scotland.

The Truth of all this may be seen at large by those that will be pleased to look upon the Acts of Parliament establishing our Reformation, the Books of Discipline, the Confession of Faith Sworn and Subscribed by the King and the whole Nation in 1580, the Acts of Parliament establishing Presbytry afterwards, the Records of our Church Printed in Calderwood's History, Mr. Andrew Melvile's *Parasynagma Perthense*, *Celsa Commissionis Anatomia*, *Epistola ad Ecclesias Reformatas de Regimine Ecclesie Scoticae*, *Vindicia illius Epistole contra Calumpnias Spotswoodii*, *Fani Andreae Pseudo Archiepiscopi*, &c. Nay the Truth of these things is owned in the main, and may easily be Collected from Archbishop Spotswood's own History, tho according to his manner he Peculiaritates, and sets Things in a false Light as much as he can, he himself being one of the principal Tools of the Court.

K. James having brought Matters to this pass in Scotland, was taken off by Death, and left the Prosecution of his Design to his Son K. Charles I. who pursued it with so much Vigour, that our Nation being no longer able to bear it, the Matter came to an open Rupture betwixt them and the King, the deplorable Issue of which both as to his own Royal Person, and our unhappy Country which was that of his Nativity, is so well known, that it needs not be Repeated. Therefore I shall only give a short Account of the Occasion of that Rupture, from the Memoirs of the House of Hamilton, Written by Dr. Burnet, now Bishop of Sarum, who cannot

cannot be suspected in the least to be partial in favour of the Parliament of *Scotland*, which broke out into that War against the Court.

K. Charles, he says, Cherished the Bishops of *Scotland* with all Expressions of Kindness and Confidence, but they lost all their Esteem with the People upon the following Accounts.

1st. The People of *Scotland* had drunk in a keep prejudice against every thing that favoured of Popery, which the Bishops judged was too high, and therefore endeavoured in Sermons and Discourses to lessen this prejudice, to Mollify the Opinions of the Papists, and to Commend their persons, not without some Reflections on the Reformers,

2. The Bishops and their Adherents did openly and zealously defend the Tenets of *Arminius*; and the Bishops not only undertook to beat down the Opinion of the Morality of the Sabbath, but by their practices expressed their Neglect of that Day, and declared themselves Zealots for the Liturgy and Ceremonies of *England*.

3. The Nobility were offended at the Bishops, because the King's Favours were mainly distributed by their Recommendation; they were also upon all Affairs, nine of them Privy Councillors, several of them of Exchequer, Archbishop *Spotswood* made Lord High Chancellor, and the Bishop of *Roxe* Fair to be Lord Treasurer.

4. The Bishops began highly to pretend to Tythes and Impropropriations, to get the State of Abbots with all their Revenue and Power restored to the Church, and to have half of the Judges Churchmen.

5. The Bishops were hatefull to the Ministry, because

because of their Trade, which was cried out upon as insupportable. Complaints were made of Simoniackal Practices with their Servants, and they exacted a new Oath (*besides what was enjoyned by Law*) from those that entered upon the Ministry, to obey the Articles of Perth, and submit to the Liturgy and Canons. Thuy made daily Inroads upon the Jurisdiction of Ministers; and their Rigour against those that favoured of Puritanism, with their meddling in all secular Affairs, and leaving their Diocesses to wait on the Court and Council, made them the Objects of all Mens Fury.

6. That which heightened all to a Crisis was their Advising the King to introduce some Innovations into the Church *by his own Authority*.

7 A Liturgy was drawn for Scotland, or rather the English Liturgy Reprinted with that Title, save that it had some Alterations, which made it more invidious and less Satisfactory. They agreed likewise on a Book of Canons, and resolved that the one should be the Form of Scots Worship, and the other the Model of their Government, which totally differ'd from their former Practices and Constitutions.

8 The Bishops not satisfied with the General High Commission Court, produc'd Warrants from the King for setting up such Commissions in their several Diocesses, in which by Persons all of their own Nomination they might punish Offenders.

This is a very true, tho heavy Charge against our Bishops by the Learned Bishop; yet it were eas from the Protestations, Declarations, Petitions and other Papers then published by the Church and

and State of *Scotland*, to make it a great deal heavier: but this is enough to shew that *K: Charles* was so much influenc'd by a Prevalent Faction of the Court of *England*, who advis'd him to reduce us by Force rather than to give way to our Demands *, that he made * *Representation* no scruple to invade our Consti- of the States of tution Ecclesiastical and Civil: *Scotland* in 1640 and it is well enough known that that Prince, how Pious and just so ever in other Respects, was so much prevail'd upon to follow *Stafford's* Method of Governing our State, and *Land's* Model of Governing our Church, that he came against us with an Army to second those Invasions, which the High-flown Party of the Church of *England* had occasion'd his Father and himself to make upon the Fundamental Constitution of our Church and State.

We come next to his Son *K. Charles II*, He knew well enough what he had done and suffered for opposing the Illegal Trial and Barbarous Murther of his Father; and that upon the News of his Death we immediately Proclaim'd himself King, and afterwards expos'd our selves to the Fury of the Victorious Usurper, made our Country a Field of Blood, and lost our own Liberty by espousing his Cause: yet he was so much influenced by the High Church Party in *England*, that soon after his Restoration he overturn'd our Church and State, which his Father had Consented to re-Establish; he obtruded Bishops upon us again, and by their Assistance obtain'd such Laws as made us as absolute Vassals (the shadow of Parliaments only excepted) as the Subjects of *France* and *Turkey*; and by a Tyrannical Execution of those
Laws

Laws, several Insurrections were occasion'd, which gave the Court a handle to oppress the Country by Military Execution and Highland Hosts, and so to advace the prerogative, that no Scotsman could plead any property in Conscience, Life or Estate, but all was at the Devotion of the Court: And by the Act of Navigation, &c. in England, the Freedom of Trade which we had formerly enjoy'd under his Grandfather, his Father, nay and even under the Usurpers, was entrench'd upon by the Act of Navigation and other Acts mention'd in the Grievances of Scotland in Relation to their Trade with England, sent up to the Council Feb. 3. 1668. Lately printed in the *Miscellanea Aulica*.

The Grievances of Scotland in relation to their Trade with England, sent up to the Council, Feb. 3. 1668.

WE have received your Lordships Paper of the 1st of February instant. signed by your Lordships Order, John Walker, in Answer to ours of the 25th of January last. To which we return this Answer: That as we are and shall be very far from formalizing in a Business of such a Concernment, so when your Lordships shall consider the Dates of our Papers, we hope you will find we have not been the cause of any loss of time or delay. By your Lordships first Paper, you desired to have the whole in prospect, and we did conceive you had it by our first Paper, wherein we Represented, that Contrary to the Privileges declar'd to belong by Law to his Majesty's Subjects of Scotland, born under

der the Allegiance of the King, and contrary to that Freedom of Trade enjoy'd for so many Tears, some Acts have been made since March 25. in the 12th Year of his Majesty's Reign. We express very particularly what related to the Act of Navigation: and where we said that by other Acts of Parliament since that time some Goods and Commodities of Scotland are at some times charg'd with a Duty and Imposition equal to, or above their Value; we doubt not but your Lordships conceiv'd we meant that Branch of an Act, charging Scots Cattel brought into this Kingdom after the 24th of August. And that by the Custom and Imposition charg'd upon some Goods of Scotland about 16 times more than the Foreign Goods of the like Nature; we meant the Act imposing 16 sh. 8d. on each Wey of the Salt of Scotland, where one shilling is only impos'd upon foreign Salt.

We mention'd also unusual Customs exacted in Northumberland and Cumberland, which we conceive might have been very obvious to your Lordships. These are the most material Obstructions, and we little expected your Lordships could reasonably apprehend any *Heterogeneous Matters* from us, being both our Commissioners are Limited to the Freedom and Liberties of Trade betwixt the two Kingdoms, and to the Imposition obstructing the same, yet seeing your Lordships do still insist, that we should first declare more particularly what we have further to propose, and give you a Scheme of the whole, in Compliance with this we do Represent, that we expect your Lordships will consent to the Restoring of his Majesties Subjects of Scotland to the same Freedom of Trade here in England, and the Dominions thereunto belonging, which they enjoy'd during the happie Reigns of his Majesty's

Majesties Royal Grandfayer, and Father of blessed Memory, And for that purpose, to the Repealing all the Clauses of Acts of Parliament here in *England* which obstruct or destroy that Freedom. We have fully express'd our selves as to the first and greatest Obstruction,, the Act of Navigation, and we now mention further, the Act for Incouraging of Trade 13 *Car. 2. Cap. 7.* and by it the Imposition on *Scots Cattel*, from *August 24. to December 20.* and what by that Act may be interpreted to concern the Subjects of *Seotland* as to their Importation of fresh and salted or dried Fish; which last Clause depends in part upon the Act of Navigation.

An Additional Duty laid on *Scots Linen Cloth*, by the Act of Tunnage and Poundage, in the 12th Year of his Majesties Reign, being one full Moiety more than is mention'd in the Book of Rates.

That part of the Act 14 *Car. 2. Cap. 7.* which forbids the carrying of Skins or Hides, tann'd or untann'd into *Scotland*.

That part of the Act for preventing Frauds and Abuses in his Majesties Customs, 14 *Car. 2. Cap. 11.* which obliges all Goods and Wares that shall be brought out, or carried into the Kingdom of *Scotland*, to pass by or thro the Towns of *Berwick* or *Carlisle*. At least we shall desire an Explanation of the same.

The Imposition laid upon *Scots Salt*, above 16 times more than that upon Foreign Salt, 14 *Car. 2. Cap. 11.*

The Imposition laid upon *Scots Beer*, viz. 10 s. per Barrel, as if *Scots men* were Foreigners, 18 *Car. 2. Cap. 5.*

And we further expect, that where Foreigners
or

or Places beyond the Seas are mentioned in any Act, it be declared, that his Majesty's Subjects of *Scotland* nor his Kingdom of *Scotland*, are not meant, nor cannot be so understood to be meant.

As concerning the unusual Customs impos'd lately in *Northumberland* and *Cumberland*, we mean, that lately there hath been demanded for every Stone-Horse carried into *Scotland*, 3 L. 6 sh. 8 d. for every Gelding 1 L. for every Mare 6 L. 6 sh. 8 d. for every Quarter of Wheat carried by Land, 5 sh. 4 d. of Rye, 4 sh. of Pease, 4 sh. of Big and Barly, 2 sh. 8 d. and of Oats, 1 sh. 4 d. Upon pretence of the Acts made in the 13th and 15th Years of his Majesty's Reign, and without any colour of Law, new Imposts, as we are inform'd, are laid upon *Northumberland* Coals carried into *Scotland*, and unusual Customs upon ordinary Mercat Commodities brought every Mercat-day into *Berwick*.

Thus your Lordships have now the full Scheme of that is to be demanded by us in this Treaty: But because what we have giv'n, in relating to the Act of Navigation, was the 1st in Time, and is the greatest Obstruction of our Trade, and indeed without which our Trade cannot be carried on here, we still insist upon an Answer to it in the 1st place, and then we shall willingly proceed to treat on all the rest in order. And we hope it shall appear, we do and shall desire nothing, but the just and reasonable Removal of the Obstructions of that Freedom of Trade so long enjoy'd, and the continuing and Strengthening the happy Agreement of both the Kingdoms, which is our greatest desire, and shall be pursued by us most heartily and diligently.

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His

His Brother K. *James VII.* tho we receiv'd him kindly, establish'd his Succession by Law, when he was banish'd from *England*, and the Bill for exclud- ing him from that Crown had pass'd the House of Commons there, did by the influence of the same Councils obtain such Sanguinary Laws against the Presbyterians, as never were enacted in the World by one Party of Protestants against another and at length arriv'd to that height of despotical Power, as to assume an uncontrollable Authority, and by proclamation alone, to dispense with Laws which establish'd our Reformation.

K. *William*, tho one of the best of Kings, and a Prince that came in designedly to Redress our Grievances, yet was so much impos'd upon by the same Councils, that he adjourn'd and broke up the General Assemblys of our Church contrary to Law; and how, and by whose Influence he treated us in the Matter of our *East-India* and *African* Company, and *Darien* Colony, can certainly never be forgotten while we continue a Nation. Nor is it to be omitted that by the Act of the 7th and 8th of his Reign, for preventing Frauds and Regulating Abuses in the Plantation Trade, our Country men residing in *England* and in the *English* Plantations had their Ships seiz'd when Trading to the said Plantations, and no *Scots* man, tho never so great a Freeholder in the Plantations, was allow'd to be a Juror, or to bear any publick Office; so that many of them 'em were turn'd out upon that Account, and some of them to avoid these Vexations were oblig'd to sell their Ships, &c. It is likewise well enough known that in his Reign there was an excessive Imposition laid upon our Linen Cloth, equal almost to a prohibition.

S E C T. IV.

The Reasons why the English Court Treated us thus since the Union of the Crowns, and some Dangers pointed at, which we ought to avoid by the Treaty.

THE next thing to be considered is, what may be the Reasons why the English Court, who made us such kind and Generous Provers of an Union before King James's Accession to their Throne, have Treated us so unkindly ever since.

There's no doubt but many Reasons might be assign'd for it both on the account of the Court and Church, but we shall satisfy our selves with this one. The Union of the Crowns was thought sufficient to answer the main Design of the Courtiers, which was to shut up Scotland, as a Back-door for Invasions upon them from France or elsewhere; and not only so, but Scotland being under the same Sovereign, they knew that we must be oblig'd to be Partakers with them in any War they should afterwards happen to be engag'd in; and if upon any occasion we prov'd Retractory, they doubted not but the Court Party at home would be able with their assistance to bring us to a Compliance: and therefore since we were tied to the same Line of Seccession with England, they did not think themselves oblig'd to make us the same Tenders towards an Union, that they did, whilst we liv'd under a distinct Sovereign. Thus it came

to pass; that the Proposals of uniting the Nations were not only neglected, but Ridicul'd both in the Parliament of *England* and in their Convocation; and the greatest Outrages imaginable were done to the Honour of *Scotland* by Satyricall envenom'd Reflections: The Priviledges which had formerly been allow'd us by the Common Law of *England* were denied us, and the Court being engag'd in a Design to overthrow our Religion and Liberty, the Methods beforemention'd were agreed upon to pursue and effect it, and the High Church Party, as they are call'd, did all they could to enable the Court to accomplish it.

The Observation which arises naturally from all this is, that we have no Reason to hope for enjoying an Union with *England* upon honourable or Advantageous Terms; but on the contrary have great Reason to fear that we shall run a very great danger by such a Treaty if the Administration of this Kingdom come at any time hereafter to be in the hands of that Party which hath all along been the declared Enemies of our Constitution both in Church and State, and occasioned us all those Troubles and Disasters which I have pointed at in the five preceeding Reigns.

To make this a little clearer, since the Court of *England*, (as has been mentioned already) has the disposal of all the Places of Power and Trust in this Kingdom, it must be own'd that whatever Party prevails in *England*, and thinks fit to make use of their power for that end, may Change our Ministry untill they fill those places with such, as for the Sake of their Posts will be ready enough to comply with what Union they shall think fit to insist upon, and to use their utmost Endeavours to procure

procure a Parliament that will do the same: Of this we can have no Reason to doubt, when we consider, that those in places of power and Trust did for the most part always concur with the Court in those Arbitrary and oppressive Methods hinted at in the former Reigns, without having any Regard to the Dishonour and Damage which the consequences would bring upon themselves, their Posterity and their Country.

Who could have thought that the Kingdom of Scotland, which had so Gallantly asserted their Liberties in the Reigns of all their Preceding Kings, and particularly in those of the five *James's* and *Q. Mary*, should after they had kept those Liberties in possession for so many hundreds of years, have so easily parted with them to King *James VI.* upon his Succession to the Throne of *England*?

And who could have thought, that after they had smarted so severely for their Folly, and been forced to expend their Blood and Treasure to Recover them again from *K. Charles I.* that they should have acted the same foolish part over again, and make so base a Surrender of them to King *Charles II.*?

And who could have imagined that after he had chastised them with Scorpions in Requital of their Kindness, the Nation of Scotland should have been so mad as to lead the Way to *England*, to settle their Succession upon his Popish Brother, who was virtually excluded by our Law, viz. The Coronation Oath, appointed to be taken by all succeeding Kings and Queens in the Reign of King *James VI.*?

But the case was plain, tho the Nation bore the Reproach, and sustained the Damage of those Ignominious

nominious Transactions; They were not their Acts and Deeds, but those of our Courtiers and Prelates, and their Dependanis and Adherents; 'twas they who committed those Rapes on our Religious and Civil Liberties, by the Assistance and Influence of the *Laudcan* Faction, or High Church of England Men; And therefore whenever our People found an Opportunity to shake off that Intollerable Yoke of Prelacy, which made them so uneasie, they constantly fell in with it, as in the time of King *Charles I.* and the late Revolution.

It is plain then, if we have any Remainders of Wisdom left us, that before we proceed in good earnest upon the Union, we ought to consider,

1. *The present Disposition of the English Nation, and whether the Laudcan, or High Church Faction, our irreconcilable Enemies, have more or less Power there, Then when this Treaty was formerly set on Foot:*

2. *We ought to consider what Treatment our Church Constitution is to expect from that Party in case of an Union, when so many of their own Subjects, who agree with us in Principles, are Stigmatized with a Note of Bastardy by some of their Writers, as Dr. Chamberlain in his State of England, and in some Measure treated as Aliens by the Sacramental Test.*

3. *We ought duly to consider how the Spirit of that Faction hath of late discovered it self in a Pamphlet Licensed by the Vice Chancellor of the University of Oxford, against Toleration of those of the Principles of our Church in England; And in another, entitled, A Letter to Sir J. P. Baronet, a Member for the ensuing Parliament, relating to the Union of England and Scotland, wherein the Author inveighs bitterly against the*

the Presbyterian, and proposes the overturning of that Government in Scotland, as one of the Terms of the Union. Nor ought we to let pass unobserved the Malice and Rancour of the Faction, Expressed against that great and worthy part of their own Nation, the Moderate Churchmen, in a Pamphlet, called, The Character of a Low Churchman.

4. We ought duly to consider the Ignominious Treatment our Country met with by a certain person who values himself, as being a Man of great Interest there, and thought fit to Express himself concerning us, when the Union was mentioned, in K. William's Reign, in a manner no ways becoming a Gentleman. To this we may add the continual Affronts put upon our Nation, in Pamphlets and Books printed in England, the Countenance given by one of their late Secretaries of State to that Renegado Harris, for belying his Country, and bespattering our African Company, and the late Publication of Clarendon's History of the Rebellion, wherein our Nation in general, and our greatest Families in particular, have not that Justice done them that they might have expected. Such practices are, no fit preface to an Union, nor does the suffering of them to pass uncensured, any way answer that Generous Treatment, which the English Nation had from us, upon the like Account; When in the Reign of K. James VI. we made an Act, which is the 9th of his 20th Parliament, against Scandalous Speeches and Libels reflecting upon the Subjects of England, as tending to hinder the Union which was then set on Foot.

5. We ought duly to ponder the Cause of Suspicion given us, that our Church Constitution will be attacked, from that Audacious and silly Speech said

to be spoke in our own Parliament, by Sir *Alexander Bruce*; and that so much could not be obtained in favour of Presbytery, as to have a Clause inserted in the Union Act for preserving that Government. This may perhaps deserve something more of our Regard, That the Gentleman abovementioned, who is charged with that Speech, is much carested for it by the Highflown Party in *England*, who thought they could do no less than hug him for that piece of Merit; and he hath been thereby Emboldened in his printed case, to accuse the Treasury of *Scotland* as his Implacable Enemies, and to have withheld his Debts and Arrears from him, because of his expressing himself against Presbytery.

6. Above all, it ought to be duly weighed and considered, whether by the Treaty of Union, we don't cut our selves off from all hopes of relieving our Country from the pressures Complained of, when we come to make the next Act for settling the Succession.

This ought so much the more carefully to be adverted to, because the Act for Abjuring the pretended Pr. of *Wales* was dropped in our last Session of Parliament, contrary to the Minds of most of the Revolution party; nor that I would Reflect upon those who opposed it, out of fear that it might pre-engage us to far in the Matter of the Succession, and so blast our hopes from our own Act of Settlement when we come to it; but it is a Caveat for us, to take special Care, that we be not imposed upon by these who are known to be Men of Arbitrary Principles; for if our Administration should come into such Hands, we have no Reason to expect any good, either from the Treaty of
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Union, or the *English* Act of Succession; For if the Anti-Revolution Party should by any Accident get the Civil and Military Power of the Island into their own Hands, they may make her Majesty, whose Title had no other Foundation than the late King *Williams*, more uneasy than ever they did him; And if they dare not adventure upon Dethroning her, may after her Death at least, send for the pretended Prince of *Wales*; when they will be sure of a French power to support him.

If this should be the case, the Union will be so far from being an Advantage, that it will prove a Snare to us, and render us incapable, either of securing a Protestant Successor to our selves, or of assisting our Neighbours in the Defence of their Protestant Line of Succession, as by Law Established. That there are sufficient Grounds for these Fears, is but too evident from the Temper which the High Church Party did formerly discover, by bringing the Duke of *York* to the Throne, tho' known to be a Papist, and in the Interest of *France*; and that there is no Change in their Constitution is but too evident from the Affection they discover to the pretended Prince of *Wales*, from their Contempt of the House of *Hannover*, and from the Outrages which they daily offer to the Memory of *K. William*, and that not for his Faults, of which he had his share as well as other Men and Princes, but for his Virtues, and particularly for his delivering the three Nations from that Yoke of Popery and slavery which they had wreathed about our Necks by their Administration in the two former Reigns.

These Things make it Evident, That it will be the Height of Madness in our Nation to proceed to an Union, except we be secured by way of Preti-

inuay, against all those Dangers which may threaten
 our Constitution in Church or State, and unless we
 find a Disposition in the Kingdome of *England* to
 Treat with us on the foot proposed by *K. Edward VI.*
 before the Union of the Crowns, when we had no
 Dependance at all upon their Court, nor any Re-
 lation to their Sovereign: If they Refuse us this,
 then it is plain that they will still make use of that
 Curb upon us, which we foolishly admitted into
 our Jaws upon the Union of our Crowns; And this
 will Justify us before all the World, to break off
 the Treaty, and to postpone the same till the Deter-
 mination of the present Entail, which will set us as to
 that Matter upon an equal footing with themselves:
 In the mean time our Consent to Treat on those
 Terms, will be a sufficient Evidence of our dutiful
 respect to her Majesty, who as *Queen of Scotland*
 can have no other end but to set us upon an equal
 level with our Neighbours of *England*, in which if
 her Majesty do not succeed, yet her generous re-
 newing of so good a design, tho so often baffled,
 must at least engage our Nation to Requite her
 Maternal Affection; with all possible Loyalty during
 her Life, and to entertain a grateful Remembrance
 of her Reign, when it shall please God to afflict us
 by her Death.

But if her Majesty shall be so happy as to over-
 come those Difficulties, which obstructed this Union
 in the Reigns of her Predecessors, and that *England*
 be really inclined to Treat with us upon equal Terms,
 then all the beforementioned Causes of Jealousie
 will vanish of course, and the Treaty of Union may
 go smoothly on, to the unspeakable Advantage of
 both Nations.

S E C T.

S E C T. V.

I Shal therefore in the next place consider some of the ~~Schemes~~ proposed towards this Union.

For the Project of Uniting the Parliaments of the two Nations which some talk of, that must either be done by allowing us a certain number to Represent us in the Parliament of Great Britain, or by admitting our full Representative as at present Constituted, to join with the Parliament of England. If the former, it will be a hard matter to adjust the number, and to prevail with any of those Lords, Barons and Burgeses, that must agree to this Regulation, to leave themselves out of the Representative; or admitting that to be easily effected, it will be hard to convince the People of Scotland, that they can be safe in their Religion and Liberty, if they are to be disposed of by a Parliament wherein the Kingdom of England has so great a Majority, since it is Evident that near 700, which is the number of the Lords and Commons of England, may easily conclude 40 or 50, which is the highest Number, that those who talk of joyning the Parliaments have hitherto proposed to allow us. For supposing, what is not Imaginable, That all these 40 or 50 Scots Members should be true to the Interest of our Church and State, and not capable of being debauched from their Duty by Bribes, Pensions or Places, they can be able to do nothing, if 400 of the almost 700 English Lords and Commons offer to oppose them; And who can assure us that they will not? especially considering the different Constitution of the two Churches, and that besides the Bishops in the House of Peers, all the Beneficed Clergymen in

England have a Vote in chusing Members for the House of Commons, besides their influence in such Elections where they have no Vote themselves ; Whereas our Churchmen have no Vote at all in our Elections, nor have or can have any Representative in Parliament. And that we have reason to be Jealous of being in that case imposed upon by the High Church Party, in relation to Ecclesiastical Affairs, and also in regard of our Civil Liberties, which enable us to stand in Defence of our Church Constitution, is evident enough from the Impositions of that Nature upon us in *Charles* the 1st's Time, and his Undertaking a War against us upon that Account, wherein he was supported and encouraged by the High Church Party, and therefore that Expedition was called by the Name of *Bellu Episcopale*.

This makes it plain, That if the future Parliament of Great Britain shall think fit to do any thing to the Detriment of our Church and State, we must be left without Remedy ; for if once we Surrender our own Parliament, we have no other Representative but the Number agreed on to Represent us in the Common Parliament, And if we Attempt any thing contrary to what they and the Prince resolve upon, we must be treated as Rebels.

If it be Objected, That the Union will prevent all Things of that Nature, for then *England* will consider us as a part of their own Body. We Answer, what Reason have we to expect that they will use us any otherwise in this Matter, then they do their own Protestant Dissenters, who are actually a part of their own Body, and their Natural Born Subjects ? yet we see, That it was not only Difficult to procure an Act of Toleration for them in the Reign
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of King William, who was their Friend, but it was several times in danger of being attacked by Sir J. P's Bill, &c. And after all they are still Excluded from Places of Power and Trust by the Sacramental Test.

Nor is it to be concealed what hardships the Old and New-East-India Companies did successively complain of, according to the prevalency of the Parties, with which the one or the other thought fit to rank themselves, and the known Struggles which are almost perpetual, betwixt those called Whigs and Tories in that Nation, where sometimes the one and sometimes the other gets the Ascendant in Court and Parliament, is Evidence sufficient of the danger that we may run by the Union. The Fears which some of the English Nation have expressed, that an Union with Scotland, tho allowed no more but such a scanty Representative might cast the Ballance on that which is called the Whiggish Side, or enable the North to outvote the West, is an evident Proof that our Fears of the contrary as to our Nation, are much more Rationally grounded; for should we be allowed any thing less than our full Representation, the Interest of the High-Church Party in England, joined to that of their Way in Scotland, might soon prove as fatal to our Religion and Liberty, as it did in former Reigns.

Then on the other hand, if we be allow'd our full Number of Lords and Commons to meet with those of England, there will be Difficulties to adjust about the Precedency of the Peers, ours being generally more Ancient than those of England, and esteeming themselves to be greater Men upon the Account of that, and of their numerous Dependants or Vassals tho they be less in Revenue

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The like will happen betwixt our Barons and Burroughs; and their Knights of the Shire and Burgesses, because our Barrons are Generally Men and of Ancient Families, conceive they had a Right to come to a Parliament as well as the Lords, and our Burroughs will have the same Plea of Precedency from their Antiquity. But admitting all this to be adjusted within doors, by assigning those of each Nation a different way of Entrance, and a separate Place in the Houses; this will still give occasion for keeping up a dangerous Distinction, and cannot prevent Disputes upon that head without doors.

But to pass these things as minute Trifles, there is this material Difficulty to be adjusted, that is to say, to have our Barons and Burgesses agree that our Lords shall sit in a distinct House, and have a Negative upon them; whereas in *Scotland* they sit all in one House, and nether of them have a Negative upon the other; but all is concluded by Majority of Votes. Our Commissioners cannot agree to any change of this Constitution without express Authority from the Prince and Parliament, on pain of High Treason; and since it Relates to one of the Fundamental Parts of our Constitution our Barons and Burgesses ought to agree to it without positive Instructions from those that send them to Parliament as their Representatives: for the advantage which our Lords have over the Commons, by their Superiority over Burroughs, and Gentlemen that are heir Vassals, is thought too great already; but if it be augmented by the Supreme Power of Judicature, and a negative Voice in the Legislature, as the Lords have in *England*, it will be increas'd beyond all Proportion, which
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it's scarce to be suppos'd our Barons and Burgesſes will agree to, ſince that were to give away their own Share of the Sovereignty of making Laws, and of being a part of the Supreme Court of Judicature, wherein they have the advantage of the Commons of *England*: and conſidering that our Great Lords are ſeldom at much pains to ſtudy our Conſtitution or Laws, and that many of them (when young eſpecially) are ſo intent upon their Pleaſures, that they think it a Hardſhip upon them 'to endure the Fatigue of hearing a long Cauſe at the Bar of the Houſe, it may become a general Grievance to the Subjects of *Scotland* to have there Barons and Burgeſſes diveſted of any part of their Right, as Supreme Legiſlators and Judges.

I know it is objected by the *Engliſh*, that to allow us our full Representative, as it ſtands at preſent, is too great a proportion, conſidering that it will much exceed our Quota of the Publick Burden, if our Country be Tax'd as theirs, according to our Land Rent, and the Valuation of our Stocks. But the Answer is eaſy, that we are a Sovereign and Independent Nation as well as they, and have the ſame Value for our Liberty and Property as they have for theirs, and think our preſent number of Representatives as juſtly proportion'd to ſecure ours, as they think their greater Number to be for the ſecurity of theirs, and know no Reaſon why we ſhould abate in that Reſpect an more than they. Beſides, our Numbers of People bear a greater proportion to theirs than do our Riches, or our Share in the publick Burdens; and it muſt be allow'd that People are a more valuable Treafure than Money and Goods, which is no where in
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the World that we know of admitted as a proper Medium for adjusting the Number of Representatives, either in United Country's, or in Kingdoms and Common welth's within themselves. This is evident in the Republick of *Holand* and *Switzerland*, which being each of 'em compos'd of distinct Provinces and Cantons, that are absolute Sovereigns within themselves; these provinces have an Equality of Power and Suffrage in the General Meetings of Diets which Relate to the Affairs of the Union; without any Respect to their Proportions of Riches, or shares in the Publick Taxes; nor is it any where more evident than among our Neighbours themselves, otherwise the Citys of *London* and *Westminster*; and the Borough of *Southwark*, ought to have 80 Representatives instead of 8, were Money and Merchandize, and Share in the the publick Burdens, the common Medium of proportioning Representatives. So that whatever Equity that Medium may bear amongst Country and Burroughs of one and the same Kingdom, it can have no place betwixt different Nations, who are equally concern'd in the Preservation of their Honour, Religion and Liberty: and therefore before our Neighbours require this as a Condition from us, it were proper that they should first bring it in practice amongst themselves, and besides enlarging the number of Members for their Rich County's, Citys and Towns, they must according to this Principal and to the Number of Votes of their Rich Lords, by which means the Dukes of *Bedford* and *Newcastle* should have 20 Votes in the Upper House, where other Lords should scarcely be entituled to one and many Towns which now send no Members to Parliament, should send two or three, whereas many that have that Privilege

ilege at present, should send none at all. Besides, being the Weaker Nation, we are in greater danger of being impos'd upon by them, for the Reasons abovementioned, then they can be in of being impos'd upon by us; Which considering the great Superiority in number that would still be on their side, tho we be allow'd our full Representation, will be simply impossible for us to do, how much soever inclin'd to it.

There are other Difficulties to be adjusted, as to the Place where this Parliament should meet. If it must always be in *London*, and in *England* That would still make us greater losers by the Union; For whether the Electors bore the Charge of their Members, or that they did it themselves, it would drain the Nation of Money, and be an intolerable Fatigue for such as must come from the North of *Scotland*; And if it should be at *Edinburgh* sometimes, as it were but Reasonable it should, the Fatigue would be insupportable to those from the West of *England*. So that upon the whole, an Union of Parliaments in either of those Methods would seem Impracticable; and for the Surrender of our Courts of Judicature, and altering our Methods of Administring Justice, the Consequences would be so pernicious and fatal to the Country, that it is not once to be mention'd.

S E C T. VI.

The Plan of an Union upon the foot of Edward VI's Declaration, Preferable to all others, and why.

THE next thing to be discours'd of is the Plan of the Union upon the foot of *Edward 6th's Declaration*, which seems preferable to all others; and is as follows.

1. That the Nations should be under one Head, in a perfect Equality and Amity.
2. That there be a mutual Intercourse of Merchandize, and all Laws prohibiting the same Abolished.
3. That both Nations enjoy their own Laws and Customs.
4. That it may be Lawful for the Subjects of either Nation to Trade in the other, or the Dominions thereunto belonging, by Export or Import, by Sea or by Land, without paying any other Customs than the Natives.

This is the Substance of what that Excellent Prince propos'd to our Ancestors towards an Union, and suits well with the Articles which the Commissioners of both Nations agreed upon in the Reign of King *James* in 1605, as has been already mentioned, and which were Ratified by the Parliament of *Scotland* in 1608, on condition that the Parliament of *England* should do the like. So that the Concessions of King *Edward the 6th*, and such of those

those Articles of 1603, as sure the present Circumstances of both Nations, are as good a Foundation for a Treaty, as any can be pitch'd upon, and may serve as a very good Direction for the present Commissioners from *Scotland*, since they were already agreed to by a Parliament of our Nation.

It is humbly conceiv'd that this or a Plan of this Nature, is the only Scheme that can be thought on, which will obviate the Fears and Jealousies that either of the Nations may impose upon the other in *Matters of Church and State*; For this neither Requires any Alteration of their present Constitutions, nor is any way introductory to it, and therefore must be allow'd to be the most safe Scheme and most easily Reducible to Practice of any that can be propos'd; Because there's nothing else Requir'd to put it in Execution, but an Act of Parliament or two in each Nation without any more Trouble or Parade.

There is no need of Disputing which of the Nations shall have the Honour of being Nam'd first in Treaties with Foreigners, since all may be Transacted, as it has been done already for many Years, in the Name of the Sovereign of *Great Britain*, and for what is Transacted at home, each Nation is allow'd to proceed as they do at present, in taking to themselves the Precedency in their Respective Countries, which otherwise could not be Disputed with *Scotland*, according to the Rules of Herauldry; since it is agreed on all hands, that we are the Antienter Monarchy.

This cuts off all Disputes about the Precedency of the *English* and *Scots* Peers, and leaves it to be Determined by the Common Rules of Civility in either Nation.

By this means the Disputes about adjusting the Quota of Members which Scotland and England shall send to the Parliament of Great Britain, is cut off, since each Nation is allow'd to retain their own Constitution and Parliament, without any Alteration in their Fundamental Laws.

This Method does likewise provide against those Contentions and Disputes that must have happen'd by cutting off some of our Lords from coming to Parliament, and by divesting some of our Countys and Burroughs of their Right of being Represented there.

It likewise prevents the Ruine of many hundreds of Families in Scotland that have all their Dependence upon the Continuance of their own Constitution in Church and State, for that Project of Union which was propos'd in the Reign of King Charles II^d. of

Surrendering our Parliament, Courts of Judicature, and dissolving the King's Family in Scotland, &c. in order to an Union with England, would perfectly have Reduc'd us to a Province, depriv'd us of all Authority, and increas'd our Poverty, by Ruining Thousands of Families at once, who depended upon our own Method of Administration in Church and State, and must have oblig'd all the Representatives who should have been allow'd us to attend the English Parliaments ever after, and those who had Law Suits to attend their Courts of Justice, which would have vastly added to our Charge, and carried off our Money, so as it could never have return'd.

* *Discourse upon the Union of England and Scotland, address'd to K. Charles II, March 16. 1664. Printed in the Miscellanea Aulica at London, 1702, P. 192.*

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That such an Union, or rather Inglorious Submission and Surrender, as this could never be practis'd, without a visible force upon us, is evident from the Temper of our Nation in all preceeding Ages.

What else occasioned those fierce Wars which lasted so many hundreds of Years betwixt us, but that we would never submit to be their Subjects and Servants.

What Compensation could they propose to such of our Nobility, Counties and Burroughs, as should by this Scheme lose their Right of coming to Parliament?

What Reward could they propose to those who have Hereditary Offices depending on the Crown of *Scotland*, such as the Lord High Constable, the Earl Marshal &c.

What Satisfaction could they make to those who have been bred to our Law, and have their dependance upon it.

What Method could they propose to satisfy our Clergy, since all the Presbyterian Ministers have an Aversion, by Principle, to the *English* Prelacy and Mode of Worship, and since ev'n the most of our Episcopal Clergy could never approve of the *English* Liturgy and Ceremonies?

But above all. How do they think that the People of *Scotland* in General, would ever part with their Crown, Scepter, Parliament and other Badges of their Sovereignty, and Independency, and submit to new Laws and new Modes of Religion? Have they forgot that the very attempting of this prov'd fatal to *K. Charles I.*

It's evident to all Men who understand History and the Affairs of the World, That all great Changes

Changes, tho ev'n to the better are dangerous, and therefore it must be own'd, that the Scheme which will effect this Union with least Trouble and Noise, and most to the Satisfaction of the People is certainly best.

S E C T. VI.

Objections against this Scheme, and First that of Religion Answer'd.

ALL the Objections that can be Proposed against this Scheme on the part of England are Reducible to this, that there can never be a steady Union where there is a Difference in Religion and Laws, and that Scotland can propose nothing Equivalent to their being admitted to the same Freedom of Trade with the English.

To which it may be Answer'd, That as to the Matter of Religion, that was made no Objection by England in Edward 6th's time, tho theirs was the Reformed, and Popery our National Religion, much less ought it to be an Objection now, when the Religion of both Nations is the same, all the Difference being only in the Government and Discipline of the Church and Modes of Worship; and as to the Modes at least, there is as much difference betwixt their own Cathedral and Parochial Worship, as betwixt their Church and ours, which makes no Breach in the Union of the Church of England, tho in one and the same Nation: Nor does it appear that the Indulgence granted by Law to those of our Way in England, has any ill Effect upon the Peace and Quiet of the Nation; But on the contrary tends to the allaying of those Prejudices and Heats

Heats that were formerly so Remarkable betwixt the two Parties, and gave such a mighty Disturbance to the Trade and Peace of the Kingdom: Whereas at present there are many Societies in England Composed of Churchmen and Dissenters, who cordially join together in promoting a Reformation of Manners, one of the great ends of Christianity, and chearfully and readily hear one another's Ministers on those occasions. Besides the Union betwixt the Cantons of Swisserland, the Papists and Protestants, is an Undeniable instance that People of different Religions may not only join but keep together in Defence of their Common Interest: And why those who differ in Circumstantials only, may not do the same no Reason can be giv'n, but an unaccountable obstinate Humour in our Hierarchies or High Church Party, from whom it would seem that an Inclination of Imposing upon all Mankind, is an inseparable Qualification.

It is therefore probable that they will insist upon a Surrender of our Church Constitution as one of the Terms of the Union, or that after the Union they will endeavour its Subversion.

S E C T. VI

Reasons why we cannot Readmit Prelacy, and a short History of what we have suffered by it in our Liberty &c.

THIS we must Guard against as we would avoid the destruction of our Country. The Experience of Time past is sufficient to convince us that Prelatical Government will never suit the

the Genius of our People. The other was inlaid with our Reformation, as is evident from the Acts of Parliameur, the Books of Discipline, the Acts of all our Church Assemblies, and the whole Administration of our Ecclesiastical Affairs, untill the time that the Earl of *Mortoun* brought in his *Tulcan* Bishops, and that *K. James 6th* brought them afterwards, *viis & modis*, to have Vote in Parliament, &c. as has been already hinted. This is plain to a Demonstration. whatever Archbishop *Spotswood* and others have advanced to the contrary. Let those who maintain that Position, give us the Names of any Protestant Bishop who Exereised Episcopal Jurisdiction in our Church, from the Reformation to the Time abovementioned, if they can. Their Sophistry that our Superintendants were in any sort Bishops in their Sence, is so Weak that an ingenious School-boy would be asham'd of it, had he but ever Read the Book of Discipline, where their Power and Office is Treated of and laid down: Besides the practice of our own Prelatists absolutely destroys this Position, what need was there else that they should send their Protestant Bishops of the prelatial Stamp to receive Consecration in *England*? And why should Bp. *Andrews* of *Ely* question the validity of their Ordination as presbyters. had Episcopacy been continued in our Church at the Reformation? This alone is enough to overturn all that Dr. *Monro* and others advanced, in their late Libel, call'd *The Fundamental Charter of Presbytery Examined*. But those who have a mind to be further satisfied in that Point, may see the matter fully discussed in Mr. *William Jameson's Nazianzeni Quirela*, Sect. 8. In the mean time its fit to acquaint the Reader that the Popish Bishop *Lestly*, in the first

first Book of his History, p. 65. exclaims with Lamentation, after he has given a Catalogue of Scots Bishops Famous for Learning and Piety, *Sed (proh dolor) omnia jam hæresis vesana longe lateq; occupat, tantamq; tanti Ordinis in Scotia Majestatem delevit, potestatem extinxit, Commendationem evertit.* We cannot desire a fuller proof than this, That our Reformers abolish'd the Order and power of the then Bishops, and that they designed not to set up any other in their stead, is evident from Matter of Fact; for the several Bishops, Abbots and Priors abandoned Popery, and joined with the Reformation, as is own'd by *Spotswood* in his History, yet they were allow'd no Ecclesiastical Jurisdiction, nor had we any like a Protestant Bishop till 12 Years after, that the *E. of Morton* brought in his *Tulcans*, who were meer Nominal Bishops, and made Simonaical Contracts with him and others of the Nobility, who they were willing should enjoy the Revenues of the Church, whilst they themselves had the empty Title, and some more Allowance than other Ministers: Nor was this done by Authority of Parliament, or General Assembly, but meerly by a Court-Trick, and was speedily after declared against and Condemned by our Church in her General Assembly, as she had done before in 1566, when in a General Assembly at *Edinburgh*. The *Helvetian* Confession was approved, all but in so far as Related to Holy days, and its well enough known that in that Confession, all Ministers in the Church are asserted to have one and the same Power or Function, and that in the beginning Bishops and Presbyters rul'd the Church in Common.

This, with what has been said before, is enough to shew upon what Accounts, and by what Means

Bishops were first impos'd upon us after the Reformation, and how insolently they behav'd themselves, till the Nation was forc'd to expel them in the Reign of K. Ch. I. has been said already, and for what ends they were Re-introduc'd, and how they behav'd themselves, both in Relation to Church and State after the Restoration of K. Charles II. is so plain and evident, that their Memory ought for ever to be hatefull to all that love their Country: But to make this more evident, take the following History of what we suffer'd by them in our Liberty, &c.

They could not be Reintroduc'd till the Noble Frame of our Civil Constitution was overturn'd by the first Session of the first Parliament of K. Ch. II. who being a Pack'd and Mercenary Club, did so far forget themselves and the Honour of the Nation, which they pretended to Represent, that they made a base Surrender of all those *Jura Majestatis*, in which the States of Scotland in all preceeding Ages had been Joint Sharers with their Sovereigns; as choosing the President of Parliament, Officers of State, Privy Councillors and Judges, calling and dissolving Parliaments, making Leagues, and making Peace and War, &c. and that too by Asserting falsely in the Preambles to the Respective Acts, abolishing those Priviledges of Parliament, that they were the undoubted and inherent Rights and Royal Prerogatives of the Crown, tho our old Acts of Parliament, especially those called the *Black Acts*, and all our old Historys of any Note, make the contrary evident. But the influence of the Court of England, of which this was one of the most fatal Effects that ever our Nation felt, was such, that our Country was forc'd to submit to this intolerable Rape upon her

her Honour and Freedom, and the Faction, that they might diffuse the Slavery thro' all the parts of our Constitution, made another Act, obliging all persons in Publick Trust to take the Oath of Allegiance, to acknowledge and assert all this to be the Right and Prerogative of the Crown, and to promise to maintain his Majesty in this Jurisdiction.

The Prerogative of the Crown being thus Exalted, above whatever any of our former King's did pretend to, the Restoration of the Mitre was thought necessary to support it; and therefore by the first Act of the next Session, Archbishops and Bishops were Restored, and that they might know their Dependance upon the Court, and the Necessity of their being Obsequious Tools, the *Jus Divinum* of their Constitution is Surrendered in the Threshold, and the *Jus Regale* of it Asserted; for in the Preamble of the Act, the ordering and disposal of the External Government and Policy of the Church, is affirm'd to be an Inherent Right of the Crown, by Virtue of his Majesties Prerogative Royal, and Supremacy in Causes Ecclesiastical: but instead of this, our Prelates were gratify'd with a few smooth Words, their Order was in the same Act call'd Sacred, and their Form of Government most agreeable to the Word of God, so that the Judicious Reader is at Liberty to consider, whether this Act did not favour both of Blasphemy and Contradiction, for if Episcopacy was most agreeable to the Word of God, and the Order Sacred, his Majesty could have nothing to order or dispose about it, which was a Contradiction to the Act, or if they say he had, they advanc'd his Power above that of the Almighty, which was Blasphemy. Yet upon this Tottering and Rotten Foundation, was our *Scotts*

Prelacy Rebuilt ; And that our Religion, or the Security of it at least, might be entirely at the Devotion of the Court and their Bishops, It was Enacted by the same Statute, That whatsoever shall be determined by his Majesty, with the Advice of the Archbishops and Bishops, and such of the Clergy as shall be Nominated by his Majesty in the External Government and Policy of the Church (the same consisting with the standing Laws of the Kingdom) shall be Valid and Effectual : And by that same Act, They Rescined all such Laws which may be Interpreted to have given any Church Power, Jurisdiction and Government, to the Office Bearers of the Church, other than that which acknowledgeth a Dependance upon, and Subordination to the Sovereign Power of the King as Supreme ; Which is another Blow at the divine Right of Prelacy.

But this was not, thought sufficient to possess the Court with an Absolute Power in Matters Ecclesiastical ; Therefore by the first Act of the 2d Parliament of K. Ch. II. the Earl of Lauderdale Commissioner, It was Enacted, That his Majesty had the Supreme Authority and Supremacy over all persons, and in all Causes Ecclesiastical within this Kingdom, and that by Virtue thereof, the ordering and disposal of the External Government, and Policy of the Church, doth properly belong to his Majesty, and his Successors, as an inherent Right to the Crown, & that his Ma: and his successors may settle, Enact, and limit such Constitutions, Acts and Orders, concerning the Administration of the External Government of the Church, and the Persons Employed in the same, and concerning all Ecclesiastical Meetings and Matters to be propos'd and determin'd therein, as they in their Royal Wisdom shall think fit ; Which Acts, Orders and Constitutions, being Recorded in the Books of Council, and duly Publish'd, are to

be observed and obeyed by all his Majesties Subjects, any Law, Act or Custom, to the contrary notwithstanding.

So that here's a Surrender at once of our Religion and Liberty, by the Influence of the Prelates and their Party; And in the 2d Act of that same Parliament, There's a perpetual Establishment of 22000 Horse and Foot, for the Maintenance of this Tyranny over Church and State; And this we were not so much as allow'd to Petition or Remonstrate against, or to Relieve our selves in time to come against such Oppressions, by proposing Limitations to any future Successor; for all this they had got declar'd to be Treasonable, or Unlawful and Seditious, in the 2d Act of that same Parliament, Entituled, *An Act for Preserving his Majesties Person, Authority and Government*, and by the 4th Act, a Declaration was impos'd upon all Persons in Publick Trust, That the Leagues, Covenants, Petitions, Protestations, and erecting Council Tables in the late Times, were Unlawful and Seditious, tho the States of Scotland had Justified those Proceedings to be according to Law in their Publick Papers, and that the same were Ratify'd afterwards both by King Charles I. and II.

And to cut off all hopes of Redress by any future Parliament, the illegal Method of Electing the Lords of the Articles begun by the Bishops, as was formerly mention'd in the Reign of K. James 6th, was Establish'd by the first Act of the third Session of that Parliament, which was as much as could be done to perpetuate our Slavery.

It is not to be pass'd over in silence, That the Foundation of this new Method of Government in Church and State, was Cemented by some of the best Blood in the

the Veins of our Nation, to wit that of the Marquis of *Argile*, who was barbarously Murder'd by shadow of Law, contrary to all Justice, because he was a person of great Authority Piety and Parts, tho he had Crown'd *K. Charles II* with his own Hands, and strenuously oppos'd the Usurpers, whilst there was any Party in the Nation to make Head against them: but being a perfect Enemy to this New Model of Arbitrary Government, there was a Necessity to take him off; for being a Subject of the greatest Quality and Power in the Kingdom. his Opposition would have put a mighty stop to their proceedings. The next was *Mr. James Guthrie*, one of the ablest and most Noted Ministers in Scotland, who had the Courage to oppose the Usurper, and to Confound his Chaplain *Lockier*, and others in publick Disputations, in Defence of the King's Right, and the Presbyterian Constitution; yet his Blood must be a Sacrifice to the Kings new Supremacy, or Civil Papacy over the Church, which he vigorously oppos'd, and not long after fell by the same hands, the Lord *Wariston*, Sir *Archibald Johnston*, one of the greatest Men ever our Nation bred, being a Prodigy of parts, a Gentleman of Transcendent Piety, who had fill'd the Chief posts in our Law, and signaliz'd himself by his advantage over the *English* in all their publick Debates about taking off *K. Ch I.* and dethroning *K. Ch. II.* but being a Patriot of the first Rank, and having produc'd in Parliament the Vouchers of our Ancient and Noble Constitution, when he was Lord Register: It was not fit that so able an Advocate against Arbitrary Power should live, and therefore after the Court had hir'd one to poyson him, and to deprive him of his Senses, by taking 60 Ounces of Blood from him,

him, during his Retirement at *Hamborough*, which did so much break his Memory that he did not know his own Lady and Children, or Remember that he had ever been Married: They Condemn'd him to die notwithstanding, but God in his Mercy, Restor'd him to his Memory and Senses the Night before his Execution, so that he died a Glorious Martyr for the Religion and Liberty of our Country: Thus did the Court of *England* think fit to Treat that Party who had stood up for the Royal Line, and our Legal Monarchy, because they would not fall in with the Arbitrary Courses then on Foot, whilst they advanced to the highest places in Church and State, those that had abjur'd the Royal Family, and complied thoroughly with the Usurpers, but had now made an Atonement by their Concurrence to support the new and unlimited Prerogative.

The King being vested with the Ecclesiastical Supremacie above mentioned, did by Proclamation alone, Turn out all Ministers that did not comply with these New Methods of Government in Church and State, but the People, especially in the West of *Scotland*, being *Presbyterians* by Principle, and looking upon Prelacie to be contrarie to the Word of God, and conceiving themselves oblig'd to adhere to their own Ministers, to regard those impos'd upon them to be Intruders, they seperated from the Establish'd Form: Besides these Objections from Topicks of Divinitie, they had others Resulting from those of Policie, as that the Parliament which overturn'd their Constitution, was neither free in its Choice, nor allowed Freedom of Debate, which together with their acting in those things, not only without Instructions from the people, whom they Represented, but contray to their Mind, and
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their own Libertie, being also taken away by the Lords of the Article, their verie Essence as a Parliament was destroy'd. To this they added, The Presbytery and the Priviledge of Parliament being made the Basis of Government in Church and State by the People of Scotland, who got them both Restor'd by K. Charles I. and Sworn to by K. Charles II. before he accepted the Crown, And the whole Nation being oblig'd to maintain them, by the League and Covenant so Solemnly Sworn to God, they thought no Humane Power could absolve them from that Oath; the Matter of which they conceiv'd not only to be Lawfull, but antecedently obliging.

These Principles being indeed Inconsistent with that sort of Monarchy which the Court of England had viis & modis got obtruded upon us, they proceeded to obtain such Acts as might enforce a Relinquishment of 'em, and a Compliance with those which were proper for the then Measures of Church and State: It's easy to imagine that this could not be effected without Violence, which was made use off to the Highest degree, and in the most Barbarous manner that could be thought on, not only by a Rigorous pursuit of the Noncompliers, according to the Establish'd Acts, but likewise by Military Execution, Robbing the poor People of all they had, and abusing their Persons in the most Bruttish and cruel manner, making a mock at the same time of everything that look'd like Religion. This incenc'd the People in the West of Scotland so much, that a handfull of them imprudently took Arms in 1666, to present a Petition to the Conncil for Redress of their Grievances, and being Defeated by the King's Forces, many of those taken were cruelly Executed, contrary to the Generals Parole and Quarter, but they behav'd themselves so much like the primitive Martyrs at the place of Execution, that
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it tended much to the Credit of their Cause, and to the Discredit of that of their Enemies and Persecutors: For every one could see a visible difference betwixt the Sufferings of those Men and of Mutineers or Rebels; the Characters of Primitive Christianity were so Legible in their behaviour and dying Speeches, as made it evident that they and the first Confessors and Martyrs were acted by one and the same Spirit: And such of the Ministers as were scatter'd up and down the Nation by this Storm were so visibly bless'd of Heav'n, in Reforming Multitudes of People by their Sermons and Conversation, and the Divine Influence did so evidently accompany their Endeavours, that none but Men of such Tempers as denied the Evidence of the Truth, which shone so bright in the Sermons of the Apostles, and the other first Preachers of Christianity, could dispute the Seals of these Mens Apostleship: Whereas we hear of no such thing attending the Ministry of such as were turn'd out at the Revolution, for adhering to the late King James and the Bishops.

The Success of those Presbyterian Ministers was so great that their Auditoris grew Numerous, which alarm'd both the Court and the Prelates; and therefore new Laws were multiplied against them, by which being made uncapable of meeting in houses, they were forc'd to the Fields, their Assemblies there were call'd Rendevouzes of Rebellion, and prosecuted as such by Armed Force, the Soldiers fired sometimes upon the poor unarmed multitude, by which several of the People were kill'd.

Norwithstanding this Opposition, the Meetings increas'd both in Number and Reputation, so that the Churches of the Episcopal Ministers in most places on this side Forth, and likewise in Fife, were but ill frequented; the Court and the Bishops did all they could

to crush them, and amongst other methods, they press'd a Bond of Conformity upon the Subjects, wherein every Subscriber was Bound for himself, Wife, Children, Servants and Tenants, to frequent their Parish Churches, and never to go to those Meetings, nor entertain any that went; so that they were not only obliged to turn out their own Relations, Tenants and Servants, but also to Inform against, pursue, and deliver up all Vagrant Preachers to Trial and Judgement: And to Force this Bond upon the Country, they brought down upon the Western Counties 10; or 11000 Savage Highlanders, whom they joined with the Standing Forces, tho in a time of Peace, to impose this Bond upon the Nobility, Gentry, and People, on pain of Military Execution, as Free Quarter, Plundering their Houses, & Driving their Cattle. They disarm'd the whole Country, The Duke of Hamiltoun, Earl of Cassils, and others of Quality not excepted; put Garrisons in Gentlemens Houses; and Levied Monies for their Maintenance, without Authority of Parliament or Convention. They Ferc'd Noblemen, Gentlemen, Farmers, Labourers, and others from their Habitations, and the Earl of Cassils in particular, one of the Ancientest Peers in this Kingdom, was Denounc'd Rebel, for refusing the Bond, and oblig'd to have Recourse to the King for Relief; nor would Duke Hamiltoun in all probability have Escaped better, though descended from the Blood Royal himself, and his Dutches the first Princess of the Blood in Scotland, had not the great Interest he had acquir'd in the Nation made it dangerous to provoke him too much in such a Furture, when the Parliament of England became severe upon the Court, on account of the Popish Plot.

By these Methods the Country was so wasted that a Famine ensued for want of Cultivation. Yet the Court

Court was Resolv'd to go on, promised great Rewards to such as would bring in Mr. *Welch* and other Ministers dead or alive; abundance of those that frequented Meetings, and were most zealous that way, were Intercommun'd, so that it was Penal for any Person to entertain them; Troops were imploy'd on purpose to suppress those Meetings, and to hunt after the Ministers and others; Multitudes were shut up in Prisons, and their Substance being wasted before hand, by their forced Absence from their Business, they became a burden to others of their own Way, who were oblig'd to maintain them: Many were sold to Forreign Plantations for Slaves, and to Forreign Captains for Soldiers. A Tax was laid upon the Country by a pack'd and overaw'd Convention of Estates, to Maintain Forces for suppressing those Meetings, and the Cause of it being express'd in the Narrative of the Act, it Minister'd occasion of Scruple to all Presbyterians and their Friends, So that many Gentlemen and others suffer'd extreamly for refusing to pay it. Being supplied with Money the Court went on with new vigour, to suppress the Meetings, the Soldiers had Orders to fire upon them, and this oblig'd such of the People as had Arms, to bring them in their own Defence; upon this several Skirmishes ensued with various Success, betwixt the Forces and the Meeters, and great numbers of the latter being thus made liable to death, by the unjust Laws then Enacted, they kept together in small Parties, and went from Meeting to Meeting.

Graham of Claverhouse, afterwards Viscount of *Dundee*, was one of those who harass'd the people with most Violence and Barbarity, he assaulted a Meeting at *Drumclog* in the West of *Scotland*, where

his Troops were Rout'd, about 30 or 40 of them kill'd, and he himself narrowly escap'd. The people who had done this, knowing themselves to be dead Men if ever apprehended, resolv'd to keep together, and this brought on a Rebellion, which the Court had so long endeavour'd, that they might thereby have an opportunity of further oppressing the Country, by a standing Army. This was that Insurrection known by the Name of *Bothwell bridge*, which *Lauderdale* call'd a bless'd Rebellion, because it gave him and the Court Faction a handle to compleat the Slavery of the Nation, which that Gallant Prince the late D. of *Hamilton*, the late Marquis of *Tweeddale*, the E. of *Cassils*, the present Lord Chancellor the E. of *Marchmont*, and others of the Nobility and Gentry had strenuously oppos'd in Parliaments, Conventions, and by several Journies to Court, tho without any other Effect than Endangering themselves. This Insurrection at *Bothwell*, tho earnestly Endeavour'd by the Court in manner as abovemention'd, was like to have been of dangerous consequence to them, and had certainly put a final period to their Arbitrary Administration in Church and State, the numbers of the Malecontents were so great, had it not been for the wild Humours of those call'd *Cameronians*, who being Render'd, mad by Oppression, divided them; And none of the Nobility or Men of Conduct appearing at their Head, both these together made them a Prey to the Enemy: So that about 300 were kill'd in the Field, 1100 were taken Prisoners, who were barbarously us'd, and 300 sent away by Sea, and by the brutish Cruelty of the Captain all of 'em but 50 were drown'd. This was an Universal loss to the Nation, for not only the Families and other

other Relatiues of those People suffer'd, but all those who had any Dealings with them, as Landlords, or others, and the Country lost the benefit of their Industry and Propagation.

These were not all the bad Consequences of this unhappy Business, for those who escap'd by Flight, were forc'd to hide, and so became a further Burthen to their Friends, who could not in Conscience or Charity, suffer them to starve, but must provide them with Necessaries, which was as bad as a Tax upon the Country. And the Court being Resolv'd to improve this Disaster to the utmost, appointed their Circuits to go through the Kingdom, to Enquire after all those who had been actually in this Insurrection, that had given any Assistance to those that were, or that had not attended the King's Host against 'em; By this means the Country was universally oppress'd, and became a perfect Theatre of Woe and Calamity: Men of Estates were involv'd in Troubles and Perplexities, and in danger of their Lives for Conve sing with their own Tenants, if suspected to have been at that Insurrection, tho it were but to demand their Rents from them.

To consummate our Miseries, the D. of York, tho in danger of being excluded from the Crown of England, upon the Account of his Religion and Concern in the *Popish Plot*, was sent down to give the Fishing Stroake to Tyranny and Arbitrary Power in Scotland. To this end he was, by his Brothers Order, admitted a Member of the Privy Council, without taking the Oaths appointed by Law; And in the same manner was afterwards made Commissioner, to Represent him in Parliament, where that Self-Contradictory Test was Fram'd. For opposing these Methods in Parliament the Lord

Belhaven

Belhaven was Imprison'd, And for Explaining of this Test, the Earl of *Argile*, one of the best and greatest Peers in the Nation, was Condemn'd; and for Refusing of it, the best of the *Episcopal* Clergy were turn'd out; for tho the generality of that sort of Men, had not only concurr'd in all those Tyrannical Methods formerly mention'd, but were the Chief Instruments in advising and procuring them; Yet to give them their due, there was a Party among them of more Moderate Principles, who dislik'd the Extravagant Power of the Bishops, and therefore pleaded for a Convocation; And, perceiving now what the Court and their Bishops were driving at, would rather Turn out than take the Test.

This Tyrannical Method of Administration gave a general Disgust to all those who had any Regard to the Protestant Religion and Humane Liberty, and put some People of Quality with us, as well as in *England* upon Thoughts, how to prevent the Ruine of both. This was branded with the Odious Name of a Plot against the King and Government; And upon that Account, several Gentlemen were forc'd to flee, many were Forfeited; And that never to be forgotten Patriot the Laird of *Ferriswood*, was Inhumanly Murdered by a Shaddow of Law, being Tried and Executed all in one day.

These Extravagant Proceedings of the Court against the *Presbyterians*, together with the avowed and open Impiety of those that were chiefly made use of to oppress them, and the visible Incouragement given to Papists, strengthen'd the *Cameronians* in their Extravagant Opinions, as that they ought not to own the King, nor any having Authority under him, because he and they had broke the Coronation

Coronation Oath, had Tyrannically overturn'd the Constitution both of Church and State, and acted so unlike either Men or Christians. That they could not Think their Administration to be such a Magistracy or Ordinance of God, as the Apostles Commanded us to obey, and therefore those poor oppressed handfull of People, most of whom were Uncapable of distinguishing betwixt a Magistracie Lawfullie invested with their Authoritie, and their abuse of that Authoritie, Run into the Foolish Extreame of taking upon themselves the Supreme Power of Church and State, and somally in their way, to Exauctorate and Excommunicate the King, D. of York, &c. wherein it is no ways impossible, but they might be acted by *Popish Agents* behind the Curtain, as were the handfull of Fifth Monarchy Men in London, whose Attempt of taking Arms was equally Ridiculous, but both of 'em of use to the Court, to bring an Odium upon all those that oppos'd their Designs in a Legal and Rational way. And indeed our *Scots* Conrt made such an Improvement of this Procedure of the *Cameronians*, That they made a handle of it, to possess themselves of a Power, to take up and Examine whom they pleas'd upon such Questions as they thought fit, to force people to tell them their Thoughts of the Insurrection at *Bothwell*, of the *Cameronians* Declaration to dethrone the King, and of their Excommunicating him, &c: and whether the King ought to be King or no, and if they did not give positive Answers, such as pleas'd the *Examiners*, they were in danger of their Lives; for if they added such Restrictions or Qualifications as these, That they own'd all Lawfull Authority, or Authority according to the Word of God, or if they Refus'd to give their Thoughts

Thoughts, as being subject to no humane Jurisdiction, they would punish them as Traytors and frequently Codemn and Execute them in one and the same day, besides many People that they Murdered in Caves, Dens, and the Fields where they Retir'd to hide themselves. These Methods did so provoke that poor enraged Party, That they affix'd Papers to Church Doors, and elsew ere, call'd an *Apologetical Declaration*, Threatning to give the Soldiers, who so barbarously pursued them, the same Treatment whenever they had an Opportunity, and tho all wise Governments; who value the Peace and Lives of their Subjects, would in such a case have endeavour'd to Reclaim such a Distracted People by fair Means and Proffers of Indemnity. Our Court went on to oppress the Country on this occasion with more Fury, and pres'd an Oath to adjure this Foolish Declaration universally upon pain of Death, gave the Soldiers a power to impose it upon all that they found Travelling on the Roads, and immediately to kill those who refus'd it. None were suffer'd to Travel about their ordinary Affairs without a Pass, signifying that they had abjur'd that Declaration; and Hostlers and Inn keepers were empower'd to impose an Oath upon all Travellers, Gentlemen and others, that their Passes were not Forg'd, And those who refus'd it, were immediately carried to Execution, and chiefly in the Mornings, That the People might not be able to prevent such bloody Cruelties. This was the conclusion of K. Ch. II's Reign in Scotland, which, by the Country People, was called the *Killing Time*.

When King *James VIIth* ascended our Throne, those Barbarous and Tyrannical Methods of Administration were according to his Brothers Method, justified

Justified by Posterior Laws, and the Practice of killing being thus Authoriz'd, Our High flown Hierarchicks, and their Brethren the Papists were glured daily with such pleasant Sacrifices; for they were now Empower'd by a Law, such as it was, to kill all that were found at Field Meetings, and in Houses none were allow'd. Soon after this, happen'd the Earl of *Argile's* unfortunate Expedition, which hightened our Misery to a further degree; But the Court having got a Surfeit of Blood by that, and the like unsuccessful Attempt by the Duke of *Monmouth* in *England*, they thought fit to Change Measures, and instead of taking our Religion and Liberties by Storm, Resolv'd to undermine them by a Toleration; and under this Pretext, exalted the Prerogative above all our Laws, which they annul'd and Revoock'd at pleasure, and in this our Bishops concur'd with him. These were the bless'd Fruits that our Church and Connry did Reap from the two Editions of our Protestant Prelacy, viz. That introduc'd by King *James VI.* and that which was Reintroduc'd by *K. Ch. II.* by which we lost more Lives, and suffer'd more Persecution upon the Account of Religion, and had greater Invasions made upon our Liberty and Property, than for any thing that appears by History, we suffer'd at our Conversion from Heathenism to Christianity, or at our Return to the Purity of Religion, by our Reformation from Popery. The Cause of which is, That in both the former Conversions we were a free and independant Nation, Our Barons and Parliaments had so great Power, and there was so much of an *Aristocracy* interwoven through our whole Constitution, that our Princes, how inclinable soever to oppose us in that Matter, had not Power

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enough to do it; And whenever they made the Attempt, it concluded in their own Ruine; whereas since the Union of the Crowns, That our Princes are possess'd of other Dominions which do so much exceed us in Power, we have not been able to withstand their Designs, except when *England* Concurr'd with us because labouring under some of the same Grievances, as in the Reign of K. *Ch. I.* and at the late happy Revolution.

The case being thus, we hope our Neighbours will not insist upon it as one of the Terms of the Union, That we should again Readmit *Episcopacy*; had they suffer'd as much by it as our Nation has done, they would be as little fond of it as we. They have no Reason to Attempt it in favour of those of that Way in *Scotland*, for the Acts of Parliament above mentioned of their own proposing, and wherein their Bishops concurr'd, gave up the *Jus Divinum* of Church Government; and Transfer'd it into a *Jus Regium*, which shews that they cannot pretend now to make it a Matter of Conscience; and therefore it can be nothing but unaccountable Obstinacy for them to prefer their Humour in this Matter to the Welfare of the Nation, so great a part of which is *Presbyterian* by fix'd Principle; because they conceive that sort of Government to be of Divine Institution, and that they are oblig'd by National and Solemn Oaths to oppose any other Form in *Scotland*. That they will be ready enough on all Opportunities to do so, is evident from the Instances already adduc'd, and by their throwing out the Prelates at the Time of the Revolution, as the great and insupportable Grievance of the Nation, which the Treatment we met with on their account and by their means, as already hinted, will for ever justify before all Mankind. This

This is sufficient to demonstrate, That Prelacy can never be Reintroduc'd into *Scotland* without Blood, That it can never be continued here without Tyranny and Oppression, That such Tyranny and Oppression will provoke the People to the same Disorders, as those before mention'd, That there will be a Necessity of Standing Forces to prevent those Disorders, That those Standing Forces will be inconsistent with the Liberty of the People, and Freedom of Trade; And it being sufficiently known, That the *Presbyterian* Part of the Kingdom is that which has the most Trade, and is most inclinable to it; The Natural and plain consequence is, That the Reintroduction of Prelacy must be Destructive to the Nation.

Besides, it can never be Executed without the Concurrence of the Court, and the Assistance of *England*. If the Court offer it, their Title to our Government will become liable to the same Objections, as was that of *Charles II.* and *James VII.* after the former had broke the Coronation Oath, to continue Presbytery, and that the latter had overturn'd those very Laws which gave him a Right to the Crown. If *England* should assist in the Design, it will eternally foreclose all Hopes of an Union without a Conquest; and the very thoughts of a Conquest, must unavoidably force us to seek new Alliances for our own Preservation, and therefore it's hop'd that our Neighbours will not at such a Juncture as this, oblige us to such Measures.

It is not to be suppos'd, That the *Presbyterians* of *Scotland* who have smarted so severely under our two Sets of Bishops above mention'd, will ever quietly Readmit that Order into the Nation. It's known, That they always blam'd themselves for

submitting to it in *Charles I's* Reign; and his 2d Edition of Bishops, as we have heard already, did not behave themselves so well, as to make the *Presbyterians*, or the Nation, fond of venturing on a 3d Edition.

It is moreover to be observed, That the Bishops now contended for, are not such as have any pre-
 rence to Divine Institution; for those who Run highest on that Head, plead only for such a Bishop as is Superior, in order to a Presbyter, has the Sole Right of Governing the Presbyters of his Diocess, and the Sole Power of Ordination and Discipline; but none of 'em would ever Adventure to say, That Bishops have a Divine Right to be Temporal Barons, Lords of Parliament, Members of Privy Councils, Lord Chancellors, Lord Keepers, or Lord Treasurers, or to a Power to hold Courts for inflicting Secular Punishments. This is own'd on all Hands to be merely Humane, and therefore alterable, as Nations see Cause; and that we in *Scotland* have seen cause enough to divest 'em of all Temporal Power and Honours, has been made so evident already, that there needs no more to be said of it. With us the Temporal Power, Honour, and Order of Bishops, was never design'd, or made use of for any other End, but to support the Arbitrary Power of the Prince, who has acquir'd more over us already, since the Union of the Crowns, than ever our Ancestors thought fit to entrust with a single Person, so that we have no need of Bishops for Tools to Wreath the Yoke harder about our Neck, and that Bishops in *Scotland* can serve for no other use, is evident from this, That their Order never was, nor ever can be grateful to our Nation; And therefore as they ever did depend upon the Prince, they must
 still

still continue to do so, and this makes them Naturally Slaves to the Court, and proper Instruments to make use of their Authority in the Parliament and Church, to enslave the Nation, which we have found swice to our Cost. and therefore should be very Impoliticke to venture upon a third Experiment.

If it be propos'd that we should admit them only in their Ecclesiastical Capacity without being Temporal Barons, Members of Parliament, or of any other Secular Court, the Answer is at Hand: We have tried them in all their real or supposed Species from the *Episcopas Princeps*, to a meer Court Chaplain, and ever found them a Grievance to the Nation.

We had Superintendants at first to take care of the Affairs of Religion, because we had not Qualified Men enough to supply all our Churches, and tho they were of no superior Order to that of the Common Presbyter, yet we found they began to assume too much, and therefore laid 'em aside. The E. of Mortoun did Fraudulently impose *Tulcan*, that is Calf skin or meer Nominal Bishops upon us, who by Simoniackal Contracts suffer'd him and others of the Nobility to enjoy the Revenues of the Church, whilst they had only the Title, and something more than an ordinary Power and Allowance. This sort we found intolerable, and sent them likewise a packing. We had afterwards another sort, who were to sit in Parliament to take care of the Affairs of the Church, without whose Commission they were to do nothing; but we soon found that the Court made Tools of them to overturn both Church and State, and therefore we sent them a going after their Predecessors ~~_____~~ The Court chang'd hands again,

again, and brought in another sort, under the Notion of Constant Moderators, with Oaths and Alseverations that they had no design to bring in the English Prelacy, and these were made Stalking Horses to paum upon us the First Edition of Protestant Lord Bishops; and what Advances those Men made towards making us Slaves and Papists, we have heard already from Dr. Burnet's Memoirs of the House of *Hamilton*, &c. And for those of the second Impression brought in by K. *Charles* the 2^d. They Managed the point for Rome and France so well, and had carried on their Interest so far, that they Settled a Popish King upon our Throne contrary to Law, and invested him with such an absolute power and uncontrollable Authority, as overturn'd all our Laws, and therefore at the Happy Revolution we forfeited both him and his Bishops.

In King *William's* Reign we had none of that sort, but could not tell how to deny his Majesty 2 or 3 Chaplains, what use was made of them to influence our Church to comply with the Court to the prejudice of the State, in the Affair of the standing Army and *Darien* Colony, I leave to others to determine, but should be heartily glad to see a Fair Vindication under the hands of those that have been so foully aspers'd, if all that was said in that Matter be nothing but Calumny. But however that is, this we are sure of, that it is as blameable in Presbyterian Ministers to leave the Exercise of their Function, and attend upon Courts, or to meddle with Secular Affairs, as it is for any Bishop or Primate, nay a great deal worse, because it is contrary to the Principles which they alwise profess'd: And therefore I cannot see what Apology can be made for Mr. *Alexander Henderson* who signed Papers relating to

Military

Military and Secular Affairs, together with the Commissioners from the State, in the Reign of King Charles the First, or what is to be said on Defence of any other Minister since, that makes such kind of Business any part of his Province.

It is unjust for us to allow in our Selves what we condemn in others, for in so doing we destroy by Example what we build by Doctrine. We have alwise Reckon'd it a just Exception against our Bishops that they affected Temporal Pomp and Honour, and Sat as Judges in Parliaments, Councils, and other Secular Courts; we held that to be inconsistent with their Character, as Ambassadors of our Lord and Saviour, who so Solemnly declaired that His Kingdom was not of this World, who would not take upon him to Judge any Secular Controversy in His own Person, and who never allow'd it to his Apostles.

They who were his first and immediate Ambassadors, who were perfectly instructed in his Will, and understood the full Latitude of their Commission, have left it behind them in the Sacred Records, that their Business was to intreat Men to be Reconciled to God; they judged it unmeet for them, so much as to attend upon Works of Charity, far less to be Lord Almoners, or Lord Treasurers and therefore they appointed Deacons to take care of the Churches Poor. They knew the Dignity and Importance of their Spiritual Character so well, that they would not debate it; or hinder the Exercise of it, by being occasional Judges of Civil Controversies, much less Lord Chancellors, Lord Keepers, or constant Attendants upon Parliaments and Privy Councils; and therefore ordered that those who were least esteemed in the Church should be appointed to decide Civil Controversies amongst Fellow Christians. The Reason of this is plain, they had work enough of their own, for which they knew that no mortal was sufficient,
Viz.

viz. to divide the Word aright, to be instant in Season and out of Season, to Reprove, Rebuke, Exhort, to watch over the Flock committed to their Charge, to declair to them the whole Council of GOD; to be Faithfull Stewards of the Myſteries of the Goſpel; to give themſelves continually to the Word and Prayer. This being the Duty of Biſhops, the Apoſtle might well cry out, Who is ſufficient for the Diſcharge of that Office? Yet ours who pretended to ſucceed the Apoſtles, did it ſeems think themſelves more than Sufficient, ſince they undertook the Cure of ſo many hundreds of Churches, and at the ſame time attended Parliaments, Councils, Courts of Princes, and Courts of Judicature.

There's no need of a Philoſophical Head, an acute Genius, or much Learning to ſee that thoſe we called Biſhops were not ſuch as the Apoſtle deſcribes: Every Man that can but read the New Teſtament, and compare the one with the other, may be able to diſcern the difference; and at the ſame time it is as plain from the ſame Texts, that Miniſters who pretend to no ſuch Character as our Prelates aſſum'd, have other Work enjoind them, than to attend upon Courts, and to Embarraſs themſelves with Secular Affairs.

I know it's objected by ſome, that Biſhops are an Order ſuperior to that of Presbyters by Divine Inſtitution, and therefore, ought to be Retain'd. I have Answer'd already, that the Epifcopal party in Scotland are of another Mind, otherwiſe they and their Biſhops betray'd their Cauſe and their Conſcience, when they transfer'd it from a *Jus Divinum*, to a *Jus Regium*, by the above mentioned Acts of Parliament, which is enough to ſilence them, But as a fuller Answer, in the Epiſtles to Timothy and Titus, we find Biſhop and Presbyter to be the ſame, in Name and Office, and perfectly convertible

convertible Terms. Dr. Hammond, one of the Learnedst of our Adversaries, was so fully convinc'd of this, that he knew no other way to avoid it, but by alledging, that those who are now call'd Presbyters in the Church of England, were not thus instituted; but the Evasion is so weak, that any Man who is not prepossess'd in favour of a Party, may easily see thro' it.

Besides Men of as great Learning, and of much greater Eminency in the Church of England than the Doctor, have express'd it as their Opinion, That in the Apostles Times there was no difference betwixt Bishop and Presbyter. Of this Mind was the Famous Archbishop Cranmer, and his Brethren in Martyrdom, Latimer and Hooper: For the first, we have the Authority of Dr. Stil.

lingfleet in his *Irenicum* †; and for † P. 293.

the other two, we have that of Voetus *, who says, it was not without great difficulty, that they admitted the Exercise of the Episcopal * Polit, Ecl. Parr 2. pag. 833.

Office, and rather excus'd than defended it. Of the same Opinion, as to the Identity of Bishop and Presbyter, was the Learned Bishop Jewel, as may be seen in his Defence of the Apology for the Church of England against Harding † Page 121.

Dr. Holland, the Religious Professor at Oxford, expos'd Bp Laud, for asserting the Divine Right of Episcopacy, as distinct from Presbytery as we are inform'd by Spanhem †; and indeed the † Part. Spec. pag. 228 first Man that ever asserted it in the Protestant World, that we know of, was Adrian Saravia, who was look'd upon as an Enemy

to the Reform'd Churches, and was indeed so true to his Principles, and so candid as to own, that the same Arguments which made for a Bishop, did plead for all the Gradations of Prelacy, from a single *Dioecesan*, to an universal Bishop of Pope *.

From hence it appears to be highly unreasonable, that those who are so divided in Opinion among themselves, about the Divine Right of Bishops, as Superior to Presbyters, should impose such Bishops upon others

who are firmly perswaded, that there's no such Officer of Divine Institution and therefore cannot in Conscience submit to him as such.

Then, as to those of our own Countrymen who exclaim against Presbytery, and seek to overturn it, b cause of the Compliance of some Ministers and others of that way, with the Methods of the late Court in the Affair of *Darien* &c. They would do well to consider, whether Episcopacy be likely to cure the Errors of Presbytery, and if the influence of a Court Chaplain or two, of no superior Order, to that of the Common Ministers was so great, what must the Influence of fourteen Bishops have been over all the inferior Clergy, who were bound to them by Oath of Canonical Obedience, considering that the Prelates, besides their Ecclesiastical Authority, had that of Lords of Parliament and Members of Privy Council, &c. to add an irresistible Force to their perswasions. And they are particularly desir'd to consider, whether all the Compliances that can be truly or falsely charg'd upon the *Presbyterian* Ministers, or others of their Friends by their Influence

* *Maresius. Exam. Theolog. quat quest. Infig. Quest. 1. p. 86 Sarav. Ep. Dedicat. ad Episcop. Angl. de Gradibus Ministr.*

Influence, will amount to one half of what was done by our Prelates, and their Adherents in the 27th Act of the 3d Session of the 1st Parliament of K. Ch. II. wherein it was Declar'd, That the ordering and disposal of Trade with Foreign Countrys, and the laying of Restraints and Impositions upon foreign imported Merchandize, is an undoubted Privilege and Prerogative of the Crown, and the King and his Successors may order the same as they shall judge fit for the Good of the Kingdom. This was so gross a Surrender of our Liberty, and made us such Compleat Slaves, that it was Repeal'd *Nemine Contradicente* in one of the last Sessions of K. William's Parliament, in which the *Presbyterians* are most blam'd for their Compliance. And tho I shall not offer one Word in Defence of any Countenance given either by Ministers, or others of the *Presbyterian* Judgment, to the Infrachment made upon our Liberties in K. William's Reign. Yet Justice must own so much, That all the Liberties we now enjoy, and such part of our Ancient Constitution, as we have already Recover'd, is wholly owing to the *Presbyterians*, and those that join'd them in the late Revolution, it being evident by the Acts above mentioned, that the Prelatical Party had made a Surrender of all.

Besides, it ought to be duly Consider'd, That any Real or pretended Miscarriages of some Ministers, and others in the Matters abovementioned, are not chargeable upon the *Presbyterian* Constitution, but proceeded from Accidental Causes, such as their Zeal, for his late Majesty, and the present Constitution; against which they were afraid the Enemies of the Government might make that Business a handle. Whereas the Compliances charg'd upon

our Prelates in the preceeding Reigns, were the Natural Result of their Constitution, for they were made Slaves to the King by our Law, he actually prefer'd them to those posts, he was the Origin and Founnain of all their power and Jurisdiction, They were accountable to him for their Administration, and he was invested with a power to act in Church Matters as he saw fit, which nail'd their Ears to the Door posts of his Palace, and made 'em his Slaves for ever.

But as to the *Presbyterian Constitution*, it is very well known that the Prince has no power of naming any of their Ministers, Their Call depends upon the people, Their Mission upon a *Presbytery*, or Associated number of Ministers; For their Administration they are accountable to *Presbyteries* and *Assemblies* Provinciall and General: All those Assemblies are Aristocratical, and besides Ministers, are compos'd of others of the greatest *Pietie*, and many times *Quality*, in their Respective Districts, who being often *Noblemen*, and others that sit in *Parliament*, take care that the Clergy, tho they would, shall not be able to impose upon the people, either in Matters of Faith or practice, or to do any thing contrary to the Laws of the Nation: There the Grievances relating to Church Affairs are fairly Represented, and freely Debated, without any power in the Prince to controul them if they act according to Law, and without any dependance, by Canonical Oath or otherwise, upon Bishops to be a Curb upon that Freedom which Church Councils ought to enjoy. So that the Reason why this Ecclesiastical Constitution has been always so hateful to Flattering Courtiers, Ambitious Prelates, and Arbitrary Princes, is the same with that of their hatred to Free

Free Parliaments, and therefore any of those who pretended to stand up for the privileges of the Countre, against the Usurpations of the Court in the late Reign, must act very inconsequentiallie if they be for overturning Presbyterie in this. If it be Reckon'd the Glorie of a Free Nation, that their propertie cannot be Touch'd, nor a pennie of their Monie dispos'd of by their Prince, without their own consent in Parliament. Why should it not be Reckon'd an equal if not a superior Advantage, to have such an Ecclesiastical Constitution, That the Prince and Clergie shall not have power to impose any Thing upon us, either as to Faith or practice, without our own Consent, in a General Assemblie or Parliament of the Church, where every Thing is free lie Debated by the Representatives of the people, as well as of the Clergie, before it can be form'd into an Act or Canon, or be obligatorie upon the Nation, so as to infer any Secular or Ecclesiastical Censure until it be Ratify'd by Law. All Men who have any just Notion of Libertie, and value for Religion, must own, That this is preferable to such a Constitution, which pin'd our Faith upon the Sleeve of the Prince and his Bishops, who Assembled Conventions that had none to Represent the people, nor a full Representative of the Clergie, and yet their Canons were impos'd upon the Nation, both in Relation to Faith and practice.

To this we may add, That in all those Protestant Countiees, where People enjoy the greatest share of Libertie, or are most zealous for the Reformation, as in Holland, Swisserland, and many places in Germany, they fell in with that Aristocratical Form of Church Government, and would never admit of any Hierarchy, but have expressly Condemn'd it in their Confessions of Faith

Faith & And the like is to be said of the once Great
 and Famous Protestant Churches in France, and of
 those still in being in the Dominions of the Elector of
 Brandenburg, and Landgrave of Hesse in Germany,
 who the Princes of all these Countries are more despoti-
 cal, than the Constitution of England or Scotland
 allows our Princes to be, which together with the
 undoubted Loyaltie of the Presbyterian Church of Scot-
 land to King William and her present Majesty, is a
 plain Demonstration that Presbytery is no way inconsis-
 tent with a Legal Government, by a King, Queen, or
 any other single person: Nor is there any Reason it
 should, since by their Constitution and Principles they
 don't allow Ecclesiasticks to meddle with Secular
 Affairs, but when duly call'd by the State to give their
 Advice in point of Conscience, or when the Scandal is
 so flagrant, that they cannot without unfaithfulness to
 our Saviour the Sole head of his Church, whose Com-
 mission they bear, omit to give fair Warning to Princes
 or States, when they act any thing contrarie to the
 Interest of Religion, and this we know was practis'd
 by the English Bishops to Q. Elizabeth, in Relation to
 Mary Q. of Scots, to King James I. of England, in
 Relation to the Spanish Match, and to their K. James
 the 2d, about his dispensing power, and commanding
 the Bishops to read his Declaration of Indulgence. Nor
 was it ever known, That any Ecclesiasticks of the
 Aristocratical Way, did usurp any Temporal Sove-
 reignty, or set themselves up in the room of the civil Magistrate,
 Whereas the Bishop of Rome, the Ecclesiastical Elect-
 ors in Germany, and several other Bishops of the
 Empire, who are Temporal Princes, are Undeniable
 Instances of such Usurpation by the Hierarchies, who
 wrest'd the Civil Sword out of the Hands of such as
 were formerly Princes in those parts of the World;
 and

C 205 V

and now are possess'd of both Temporal and Spiritual
Sword, and how dangerous Weapons either of these
are in the Prelates alone, our Nation hath felt too severe-
ly, to be now ignorant of it.

S E C T. VIII.

*Answering the Objection from Difference
of Laws, and that we cannot give an Equi-
valent for Freedom of Trade.*

AS to the Difference of the Laws, such as have
been Conversant in that Study will soon be
satisfied, That the Difference there, is like-
wise more in the Way of Administration, than in
the Essential Part; and that there can no such
Difficulty Result from that, as to hinder the Sub-
jects of either Nation from Recovering their Debts
and having Justice in any Respect done them in
the other: Besides, if there be any Difficulties of
that Nature, They may soon be Remov'd by Act
of Parliament. But after all, supposing the differ-
ence in Laws to be greater than Really it is, King
Edward the VI hath sufficiently answer'd it in his
Declaration above mention'd; And why our Neigh-
bours should insist more upon that Matter since the
Union of the Crowns than they did before, there
can be no Reason assign'd which will not plead as
strongly for our denying it, as for their Requir-
ing it.

Then as to the Equivalent they Talk of, for
being admitted to the same Freedom of Trade with
the English. We know not why the Union of the
Nations

Nations may not be as sufficient to Answer that now, as 'twas in the time of *Edward* the sixth, when 'twas not so much as made an Objection: But for a further Answer, our Neighbours may be pleas'd to know, that we Think them very well Compensated for that.

1. By the Ceasing of the Alliance betwixt us and *France*, For that Alliance made them liable to constant Wars and Invasions at Home, and Disturbances in the Progress of their Arms abroad, and lost them all the Great Acquisitions that once they had in *France*.

2. By the great Sums of Money which are annually spent in *England* by our Nobility and Gentry in their necessary Attendance at Court; and by their purchasing in that Country the best of their Household Furniture, Apparel, Coaches, Horses, &c. to the great Dammage of our own Nation, to which that Money never circulates again.

3. If that be not enough, they may have a further Compensation by improving their Stocks, their Art, and their Industry in our Fishery, Lead, Salt, Linnen cloths, &c. with which is known our Country abounds, and might certainly make as good Returns to the *English* and our selves, as they do to the *Dutch* could we but once come to so happy a Temper as to join cordially in it. The *English* being admitted joint Sharers with our own Subjects in those and other Branches of our Trade, which by a continued Tract of Oppression ever since the Union of the Crowns, we have been made unable to improve by our selves, would quickly obviate Mr. *Fuller's* Causes of Fear, that the Lean Cattel would break in among the Fat, and make all Lean together; for then we should have Employment enough for all

our hands at home, and might make use of ^{em} to promote the advantage of the whole Island, instead of being a Burden to any part of it.

The *English* being thus made *Sharers* in all the Branches of our Trade, 'twould likewise sufficiently make up any Loss which they can pretend to sustain by our importing any of our Commodities into their *West India* plantations; and a mutual Communication of priviledges in this Manner betwixt the two Nations, would be the most speedy and effectual Method to cut off all Inclinations in the *Scots* to Foreign Dependancies, which some of the *English* Politicians seem much to fear, if

they continue two distinct Nati- * *Discourie upon the*
ons *. For the *Scots* being gra- *Union of the two*
tify'd in this, and left to the *Kingdoms, adressed*
Enjoyment of their own Con- to K. Chares the II.
stitution, would have no occasion *MiscellaneaAulica,*
to seek after any Foreign Depen- *Pag. 194.*
dencies.

Nor is there that Nation in the World which could propose us any thing to Ballance one half of the Advantages we should lose were we united with *England* upon those Terms; The denial of which is the ready Way to force us to look out after Foreign Dependancies; And if that should ever be the case, (which God forbid) there is no Nation in the World capable of doing *England* so much damage as we.

4. If the Union be agreed on upon such Terms, it will be a sufficient Compensation to *England*, That we bear a proportionable Share with them, according to the Valuation of our Rents, in maintaining any War that may happen against the Common Enemies of the Island, and in raising a proportionable number of Men for that end; Which then we shall

cheerfully agree to, Whereas now, it is at our option whether we will do either, and upon any Disgust giv'n us by the Court they run the risk of a positive denial of both, as was plain enough from the Opposition the late Court met with in Parliament, upon the ill Treatment we receiv'd from 'em as to *Darien*.

5. Tho there were no probability that the *English* should have any Compensation for admitting us to an Equality in matter of Trade, we have reason to insist upon it, as part of a Compensation for the Losses we have sustained by the Union of the Crowns, of our Priviledges in *France*, which were very great, and equal in all Respects to those of the Natives, as may be seen by the Acts of the eight Parliament of Queen *Mary*, Number 65, 66. Besides, it's well enough known, that long before that time *Scotsmen* were capable of the greatest Dignities in *France* for in the Reign of King *James* the first, Anno 1420. the Earl of *Buchan* was by *Charles* the VIIth of *France* made Constable of that Kingdom, which is the Highest Post next to the Crown; and the Lord *Douglass* was made Duke of *Turenne* at the same time. The Lord *Aubigny* was made General of the *French* Army in *Italy* by *Charles* the Eighth, and Viceroy of *Naples*. The Duke of *Albany*, who was Viceroy of *Scotland* in the Minority of King *James* the Fifth, was made General of the *French* Army sent to Recover the Kingdom of *Naples*. The Lord *Montgomery* in the Reign of *Francis* the First, had the Command of 6000 Men in *France*, who, because of their Extraordinary Valour, were call'd 6000 Devils. In those days there never wanted a considerable Body of *Scots* Horse in *France*, Commanded by some Noblemen of *Scotland*. In Queen *Mary's* Minority

Minority the Lord *Hamilton* was created Duke of *Chattelheraut* in *France*, And its well enough known, That the King of *France*'s own Guards were compos'd of *Scotsmen*: So that by our League with *France*, we had an Opportunity of Honourable Provision for the Younger Sons of our Nobility and Gentry, and a constant Nursery of Soldiers to serve us on all occasions, without endangering our Morals or Liberties by standing Armies in our own Nation: And besides, they were every way as steadable to us as if they had been at home, for there they gave a Diversion to the *English* Arms. Then as to our Priviledges of Trade, it is known, we had greater Immunities of that sort in *France* than were granted to any other people whatever; all which we have lost by the Union of the two Crowns. And therefore the *English* have no Reason to grudge us an Equality in Matter of Trade to make up part of this Loss.

But after all, perhaps if our Merchants and Traders be consulted in the point, as it is hop'd some of the chief of 'em will; It may be found, That an Equality of Trade with *England* in all her Plantations, will not come near to Ballance the loss that our own Trade at home, and particularly our Woollen Manufacture must suffer by the Importation of *English* Cloth and Stuffs. Nay I believe we must of necessity be considerable Losers by it, unless we can fall upon a Method of Exporting their *West India* Commodities; for our own Consumption of those things can never Ballance it: And therefore it must be well weighed and considered; whether there be any Probability of Enlarging the Export of our Linnen, and other Commodities, by such an Union, before it be agreed to.

In the next place it ought to be duly Weighed, whether *England* can propose us any thing equivalent to the Priviledges granted our *African Company*; and therefore particular care must be taken that those Priviledges suffer no Diminution by the Union, except the *English* can propose us a satisfactory Ballance. It's very probable, that they will Dispute our Freedom from Customs, because of their Fears that it may enable us to undersel them, but this would seem to be the least that they ought to allow us as a Compensation for the Damages we have sustain'd by the Opposition which they made to our *Darien Colony*: And besides, when we consider the Draw backs they are allow'd when they export those Commodities, and the Advantage they have by buying greater quantities at first than we can pretend to, our freedom from Customs in this matter will appear to be nothing so great as at first view they imagine.

Above all, We ought duly to consider the present Differences betwixt our Circumstances & theirs. They have actually settled their Succession, and have adjusted their Limitations for the next Successor. We are still at Liberty both as to the one and to the other. So that we have Reason to Expect rather better Terms than those propos'd us by *Edward the sixth* in his Declaration above mention'd for then we had only a Princess to dispose of, but now we have a Kingdom, which is infinitely the more valuable Prize: Because Princes in possession are hardly prevail'd with to allow their Subjects any greater Priviledges, than those which they enjoy'd under their immediate Predecessors; but when a Line of Entail wears out, which is the case now in view, the People have an opportunity of making
what

what Terms they please with the next Person or Family they prefer to the Crown ; and therefore we have no Reason to doubt but the next upon whom we confer our Scepter, will agree to what we can reasonably propose as a claim of Right, except we be wanting to our selves. This puts our Parliament in a Condition to Reassume three Parts in four of our Sovereignty, which were anciently lodg'd in the three Estates, who had a Commanding power over the Prince in all the *Jura Majeſtatis*, he being only at the Head of the Administration ; but having no power to do any thing Relating to the *ardua Regni*, without their Concurrence and consent. The case being so, we have not only an Opportunity of Recovering our said Constitution, which hath been wrested from us since the Union of the Crowns, but we may obtain as a Preliminary from the next Successor, the taking off all Impositions upon Trade, and making our Country a free Port ; in lieu of which we may allow the Crown a Tax upon Land, or what else we think meet, which will be sufficiently made up to our Nobility and Gentry, by the Rise of the value of the product of their Lands, that must necessarily happen, upon the Enlargement of our Trade : And this we have reason to expect as well as the other Countries, where Commerce is Encourag'd by easie Imposts, by lowering the Interest of Money, by promoting Home Manufactures, and taking care to imploy their Subjects.

These Things make it evident, That the *English* may Reap great Advantages by uniting with us upon equal Terms, since it affords them an Opportunity of supplying any thing that may be wanting in their late Act of Settlement for securing the Liberty and

and Propertie of the Subject, or encouraging their Trade; for if we obtain those things, which we may certainlie do, if those who Represent us don't betray their Trust; The *English*, if they think fit, have a good Plea to demand the same; and therefore it would seem to be their Interest rather to assist us in obtaining those Preliminaries, than to oppose us in it.

S E C T. IX.

Proposals for Preserving the Union, if agreed to.

IF the Nations be so happie as to agree upon an Union on the Foot of King *Edward* the sixth's Plan, or of that agreed to by the Parliament of *Scotland* in the Reign of King *James* the Sixth, it will be necessary to lay down Measures for the Preservation and Continuance of that Union: As to which the following Proposals are humbly offered:

1. That so much of the Treatie begun at *Rippon*, and concluded at *Westminster*, in 1641, as suits the present Circumstances of both Nations, be taken into consideration, as a proper *Medium* for preserving the Union, because that having been already agreed to by King *Charles* the First and both Nations, will in all probability be the sooner agreed to again. The chief of the Articles of the Treatie which seem to be any way proper for our present Circumstances, are as follow:

1. That the Factors and Merchants of either Nation Trading in the other, be not pres'd with Oaths

Oaths and Subscriptions not Warranted by the Laws of their Respective Countries; and the like any other Subject, sojourning for a time, but such as be fix'd Inhabitants by Inheritance, Freehold, or settled Trades, to be Subject in those and other Respects, to the Laws of the Country where they have their fix'd Residence. The same to be understood as to *Ireland*. And to this may be added, That none of the persons above mention'd, except as is above excepted, be pres'd to a Conformitie in Church Matters, in either Kingdom, it being very well known what Troubles were occasioned on that Head to *Scotsmen* Residing in *England* and *Ireland* in the Reigns of *Charles* the First and Second.

2. That whosoever shall be found upon Trial and Examination by either of the two Governments or Parliaments, to foment Division betwixt the Prince and people, or betwixt the two Nations, shall be liable to the Censure of the Respective Government or Parliament to whose Authority they are subject. This is certainly as necessarie now as then, considering how scurrilouslie our Nation is Treated by Pamphlets in *England*, Tending to make our Constitution in Church and State odious to the *English* Nation.

3. That the Prince shall not hinder any of the Subjects to be Tried and Judged by the Parliament of either Nation; to which they are Subjects; That after Sentence of Parliament, no such person have access to the Prince, or be maintained and enjoy Places or Offices, or have Credit and Authority to advise the Prince, when Censured by the Parliament of either Nation. *This the Parliament of England have thought necessary from time to time in their own Country, with relation to those they had*
Impeach'd

Impeach'd; and our Nation suffered much for want of such an Agreement in the Reign of King Charles I. when those, who Subverted our Constitution, were protected and imployed by him in England, after they were Censured by our Parliament; and its well known how a certain Gentleman is Caress'd in England at present, tho expelled our Parliament for flying in the Face of our Constitution.

4. That all Books, Libels and Pamphlets, published in either of the Nations reflecting upon the Honour of the other, be Suppres'd and Revok'd, and all such forbidden in time to come, This cannot in Justice be looked upon as an undue Restrant, since those who are for a Towering Prerogative in the State, or Episcopacy in the Church, or the contrary, have Scope enough to debate their Opinions fairly, and to propose any thing to the Parliament of their respective Countrys modestly, by Word or Writting, without being allow'd in either of the Nations to libel and affront the Constitution of the other, either in Church or State, which can have no other effect but the raising of Animosities and Divisions.

5. That no Person sentenced by the Parliament of either Nation, as Incendiaries betwixt the Nations, or betwixt the Prince and People, shall have any Shelter or Protection in either of the Kingdoms, but he delivered up upon demand to the Country, where they are Subjects, if they fly from the one Nation to the other,

6. That as there was then Conservators of the Peace, being so many of each Estate of Parliament appointed by the Parliaments of both Kingdoms with the Consent of the King, There may be in like manner Conservators of the Union appointed with the same Powers, that the Conservators of the Peace had, viz.

To

To convene at Places and Times convenient to take care that the Union agreed on may be kept, and to endeavour the Preservation of the same by all lawfull Means, and to use their utmost care to prevent all Breach of the Articles, or any Trouble and Division which may arise by the Violation of any of the said Articles, to be Answerable for their Proceedings to the Prince and Respective Parliaments; and if any thing happen that is not in their power to Redress, that they represent the same to the Prince and Respective Parliaments, and these Commissioners to be chosen from time to time as the Prince and the Parliaments shall find convenient.

These Things having been agreed on as to the Matter, betwixt the two Kingdoms in 1641, it's humbly conceiv'd that they may be very proper to be taken into consideration now, as fit Measures for preserving the Union, it agreed to.

There were other Things then proposed, which seem equally necessary towards a happy Union, viz That the Consent of both Parliaments be had in making Peace or War, and in Leagues with Foreign Princes; and that the Extracts of Bonds and Decrees recorded in Scotland, may have the like Faith and Execution, as the French Tabellions have in England or Ireland. It was also demanded, that the Prince and his Court reside one Year in three in Scotland, that the Sovereign may be the better acquainted with the Constitution of the Country, by which means they will secure the Affections of our People, and have opportunity of doing so, by redressing our Grievancies in Person; and by this mutual Intercourse and Commerce, the Amity and Friendship betwixt the two Nations will be increas'd

and an universal Trade and Circulation of Money thro' the Island promoted.

It deserves likewise to be considered as a necessary Expedient for preserving the Union, That we be Restor'd to such Parts of our Constitution as we have been depriv'd of by the Union of the Crowns, and particularly that necessary part of it, of having our Parliaments chuse their own President, of having our Judges, Officers of State and Privy Councillors, chosen in Parliament, and accountable to the Parliament for their Administration; for tho it be commonly said, that this was a Force put upon King *Charles the First* in a time of Rebellion, by which this Privilege was Extorted from him, and that it was an Innovation in our Government and a new Inroad upon the Prerogative. It is a grand Mistake. They that have perus'd our old Acts of Parliament, call'd the Black Acts, know that it was our ancient Constitution, which we were possess'd of, at least for the greatest part, ever till the Union of the Crowns; but not being able to contend with the King of *England*, and his Court party in *Scotland*, we were bereft of it, and therefore in Justice ought to have it Restor'd; it being but reasonable as was express'd in the Acts of King *Charles the First*, which renew'd our Right to that part of our Constitution, That the Absence of our Prince, should be Compensated by good Laws. This were an effectual Method to prevent all Misunderstandings betwixt the Prince and the People, and betwixt the two Nations, because it would secure us from all Suspicion of being impos'd upon by *English* Councils, and 'would oblige those in the Administration to be true to the Interest of their Country, since they could not be promoted to those Posts without consent of

of Parliament, and must be answerable to them for the Counsels they give the Prince, and for the part which they act in the Executive Power, And this having been allow'd us with the Consent of the *English Nation* in 1641. there is no Reason that they should oppose our Reobtaining it now.

Then as to frequency of Parliaments, by our Constitution we ought to have one every Year, the Act for Annual Elections being still in force: Neither have our Representatives in Parliament an absolute and unlimited Power, but are oblig'd to act according to the Instructions of those that send 'em, and in all Changes propos'd relating to our Fundamental Constitution, they ought to Consult their Electors, before they come to any final Determination: For as it is well express'd by one of the greatest Lawyers ever we had, tho they have a Commission *cum Libera potestate*: It is to be understood; That they may *Superstruere*, but cannot *Evertere* or alter Fundamentals and the Constitution of the Government either of Church or State, and if any thing of that Nature be intended, it ought not to be done by Representatives, unless they have

Special Authority to that purpose *. * Sir Jo: Nisbit's *Doubts & Questions in Law*, p. 17
For the power of our Parliaments is limited both by Common and Statute Law, to that which is Convenient and Profitable for the Realm, as appears by the Acts of *James the First*, *Parl. 7. cap. 102*, *Jac. 2. cap. 38.* and *Jac. 3. cap. 106.* † And indeed since the Constitution of our Parliament is now so much alter'd from what

† These two last are in the *Black Acts*.
Originally was, there's the greater Reason for this Limitation, And to send

Affessors with Members to see that they follow their Instructions : For anciēdly all our Barons and Freeholders came to Parliament in person, not as Vassals and Tenants are oblig'd to attend Baron Courts, as some Men of Arbitrary Principles have thought fit to alledge, but as a Service which they primarily ow'd to their Countrey, where they were so far from acting only as meer Vassals, that they had a joint Share with the Prince, if not a Commanding power over him, in all those things which Politicians call *Jura Majestatis*. For the proof of this, I refer to the following Appendix, which is the Scheme of a larger Discourse intended on that Subject, for the Vindication of our ancient Liberty, against Sir George Mackenzie and others who have advanc'd the *Jus Regium*, as they call it, to such a height, as it would seem they had never Read our old Laws, or if they had, did Wickedly Conceal them.

To conclude, If an Union be agreed on, or when our Nation comes to think of Limitations for the next Successor, the Oath of Parliament, Enacted by the Parliament of Scotland in 1641. to be taken by all Members, deserves to be taken into consideration, as not improper to be made use of : It was in substance thus : *We underscribers and every one of us, do in the presence of Almighty GOD Promise and Vow, That in this present Parliament, we shall Faithfully and freely Speak Answer and Express our selves upon all and every thing which is or shall be propos'd, so far as we think in our Conscience may conduce to the Glor, of God, the Good and Peace of the Church and State of the Kingdom, and employ our Endeavours to promote the same, and shall in no wise advise, Vote, or consent to any thing which to our knowledge we think*

not

not most Expedient and Conduceable thereunto; As also, that we shall maintain and defend with our Life, Power and Estate ——— Royal Person, Honour and Estate; and likewise the Power and Priviledges of Parliament, and the Lawful Right and Liberties of the Subjects, and by all Lawful Means and Ways oppose and endeavour to bring to Trial, all such as either by Force, Practise, Counsel, Plots, Conspiracies, or otherwise, have done, or shall do any thing in prejudice of the Religion, Laws, Liberties and Peace of the Kingdom: And further, That we shall in all just and Honourable Ways endeavour to Preserve Union and Peace betwixt the three Kingdoms of Scotland, England and Ireland, and neither for Hope, Fear or other Respect, Relinquish this Vow and Promise.

A P P E N D I X

Being a Brief View of the Original Rights
of the People of Scotland:

Humbly propos'd to the Consideration of the three Estates of the Kingdom, when they come to Think of Limitations in their Act for Settling the Succession, or of Proposals for the Union of the Kingdoms.

I. **T**HAT the Sovereignty was not lodg'd in the King alone, but in the King and the three Estates in Conjunction.

From

From hence it came to pass,

1. That the King's of Scotland had no Negative Voice, but were oblig'd to give their Royal Assent to what the Parliament Enacted, or otherwise it had the force of a Law notwithstanding, because three parts of the Sovereignty being Lodg'd in the States, did alwise determine the fourth, which was Lodg'd in the King. This was evident in the case of the Reformation, which had the force of a Law, because Enacted by the States, tho' Queen Mary and her Husband the Dauphin, refus'd their Assent to the Laws which Establish'd it, and upon her return to Scotland she was so far from offering to dispense with them, that she intreated her Nobles to allow her a private Mass in her own Family.


This was not owing to the Weakness of her Sex, or the Troubles of the Times, but the Result of our free Constitution; For our Histories are full of Instances of our Parliaments calling their Kings before them, to give an Account of their Administration evn in time of Peace; as *Culenus*, our 79th King. and *Eugenius VII*; the former being sent for by the Parliament to answer for his Male Administration; and the latter being brought to his Trial for the suppos'd Murder of his Wife. This they could never have done, if our King's had been possess'd of a Negative Voice, and had not the Estates themselves been possess'd of a Commanding share of the Sovereignty. That our Kings had no Negative Voice, is own'd in a Book call'd, *An Essay upon the Disorders of Scotland*, at the down sitting of the Parliament in 1661. sent by the Earl of Middleton to King Charles the Second, and now lately publish'd in a Book at London, call'd *Miscellanea Aulica*.

2. Hence

2.^o Hence also 'it came to pass, that our Kings did use to Request the Estates upon occasion: Thus we find it said in the Acts of King James the First, cap. 125. *Item Dominus Rex obtinuit per modum Requestus.* And in the Acts of King James the second, cap. 62. That the King should Request the Great Borroughs to make Carts of War, and in each Cart two Guns.

3. This was also the Reason that when the three Estates made War upon the King, for invading or Subverting our Constitution, it was not Treason, as appears by the Act of Jac. 2 cap. 24: wherein, it is declair'd to be Treason for any Man to raise War against the King, or to attack any Castle &c. where he is in person, *without the Consent of the three Estates.* This appears plainer by the Act of Jac. 4. cap. 14. which declares, That King James the 3^d, and those that fell with him in the Field of Sterlin, were slain by their own Default, and that K. James the Fourth, and those that join'd with him, were innocent and free of the same Slaughter, because he and they were for the Common Good of the Realm, and King James the Third and his perverse Council intended the perpetual Subjection of it. This power of the States is at large asserted in the Memorial which the Earl of Morton and others presented by their Order to Queen Elizabeth, to Justifie their Dethroning of Queen Mary, as may be seen in Buchanan.

II. The great power that the Parliament of Scotland, was formerly possess'd of, is evident from the following Instances.

1. Their Letter to the Pope, signifying, That they had Dethron'd John Baliol, for betraying their Sovereignty to England, and that  had set up Robert

Robert Bruce in his stead, whom they would also Dethrone if he follow'd the same Measures.

2. That every Man of them drew his Sword in Parliament, when *Robert Bruce*, by the Advice of bad Councillors, demanded to see the Rights of their Estates, which he knew most of 'em had lost during the War with the *English* and *Baliol's* Faction, and told him they held their Estates by that Tenure.

3. By their obliging King *James* the Third to fluch up the Earl of *Mortan's* Charter on the Throne, where he had tore it, because of the large Privileges it contain'd.

4. In the Acts of the five *James's*, they direct, not to say Command their Kings in the Weightiest Affairs of the Administration: As in the Mending of the Coin, *Jac: 1 cap. 25*, Causing the Judges to do full Justice, *cap. 29*, The like may be seen as to other parts of the Administration, such as Remissions, and his Majesty's being ordered to Ride about in person to do Justice, &c. as may be seen in the Acts of *Jac: 2 c 1*, & 102, *Jac 3 c 80*, & 100, *Jac 4, c 6*, and *Jac 5, c 38*. The King promises to do nothing but what he may justly by the Advice of his three Estates.

III. The Parliament had the Priviledge of meeting annually, and sometimes twice per Annum, And Members were annually elected at the Head Court of each Shire, *Act James 1 c 112*, Ratify'd *Parl. 11 Jac: 6 c 113*. They likewise chose their Speaker, as appears by that same Act of *Jac 1 c 112*. were Adjourn'd by their own consent, and appointed the Time and place of next Meeting, as appears by Acts of *Jac: 1 c 125 c 145*, *Jac 2 c 22, 38 42, 52 Jac 3, c 1 75*. And this priviledge was own'd by

by *James* the Sixth, in his Letter to the Lord *Balmerinock* his Secretary, May 6. 1604, ordering that the States should continue the Parliament.

IV The States had a power of appointing Committee of their own number to Superinsend the Administration during Intervals of Parliament, and to give orders in Matters relating to Peace and War, as appears by Act *Jac* 1 C 72, 86, 89. *Jac* 2 C 22, 77. *Jac* 3 C 2 52 58, 61 75 97 *Jac* 4 C 8, *Jac* 6. in most of his Parliaments, Committees were appointed, and particularly in his 11th, one is appointed for the Defence of the Realm in time of War.

V Formerly all the Barons and Freeholders attended in Parliament, and the first time their attendance was dispensed with was in the Act of King *James* First, Cap. 112, on condition of their chusing Commissioners to Represent them at the head Courte of each Shire, and those Commissioners were to chuse their Speaker to propose all things relating to the Commons in Parliament, yet we find all the Freeholders present in the next Parliament held at *Perth*; as also at several Parliaments in King *James* Second's Time, Act *Jac* 2, *Parl* 14 Cap 75, in *Sir Tho. Murray's* Collection, ordered that no Freeholder, who held under 20 *l.* of the King, was to be constrained to attend in Parliament. Act *Jac* 2, Cap 113, all Barons and Freeholders above the extent of 100 Merks were obliged to come to Parliament, on pain of the old Fine. They were all present at Queen *Mary's* Parliament at *Monktonhall*, Cap 3, nor is there any Statute that positively Discharges their Attendance to this day.

VI The Parliament had the power of creating Lords of Parliament. Thus the Lord *Douglas* and others

others were created by King *Malcolm* in his Parliament at *Forfar*, Anno 1061 and *Robert the Third* in a Parliament at *Pertb* 1396 created his own Son Duke of *Albany*.

VII The Parliament had also a Power in creating Royal Burroughs, as appears by *Parl 15 Jac 6*, *Cap 263* where they order the Building of several in the Highlands.

VIII The Parliament had a power in all Matters relating to Peace or War, as arming the People, appointing the Rendezvous, ordering the Manner of the War, and appointing the King himself to Command in Person, if the King of *England* invaded in person. They ordered Proclamations against Traitors, appointed Garisons, their Commanders, and Maintenance, as appears by Act, *Jam 3 Cap 100*.

The Parliament also appointed all the People to be arm'd and Disciplin'd at certain times of the Year, and Captains to be chosen in every Parish, as appears by the Acts *Jac 2 Cap 71 Jac 3 Cap 106*, *Jac 4 Cap 53 Jac 5 Cap 45 61*, and by the Acts *Jac 4 Cap 120*. and *Queen Mary, Cap 13*. No War was to be proclaimed, or Tax Levied without consent of Deputies from the Burroughs, as the third Estate of Parliament; and by the Act *Jac 1 Cap 140*. They appointed Gallies for the Defence of the Coasts, and how they should be maintained.

IX As to Money given for carrying on a War, they appointed the Auditors of the Accounts, the Receivers and Keepers of the Money, and in case Peace were concluded in the mean time, they ordered that the Money should be kept for the Common profit and use, Act *Jam 1, C 146*. And Money given for publick use, they would neither allow

allow the King to Discharge any part of it, or apply it to any other use, Act Jac 4 Cap 21 and 72

X The Parliament named Ambassadors, adjusted their Number, Retinue, Expenses and Instructions, when sent to make Leagues and Treaties about the Affairs of Peace and War, the Marriage of our Princes, and Matters Relating to Trade and Commerce, as appears by the Acts Jac 2 Cap 51 Jac 3 Cap 62 97 100; 108 126, Jac 4 Cap 2 22 23 44 49 72 They also appointed Ambassadors and Terms for the Marriage of Queen Mary, and in King James 6 Parl 13 C 277 they advise the sending of Ambassadors to Foreign Princes, and grant a Tax for it.

XI. The Parliament appointed Courts of Justice, and Named Judges, Lords of Session. Ministers of Justice, Methods of Administrating the same, chose and Swore them in Parliament, and appointed their Qualifications, as appears by Acts. Jacob. 1. cap. 6, 72, 93, 98, 99 150. Jac. 2. cap. 3, 68. 69, 70, Jac. 3. cap. 30, 76, 117, Jac 4 cap 51 Jac 5 cap 6 36 63. Queen Mary cap 2 Jac 6 Parl, 1 cap 18 Parl, 8 139, Parl 12 cap 132, and all Jurisdiction and Judgement not approved by the Parliament is Discharged, Jac, 6 Parl 8, chap 131.

XII. The Parliament did also limit the King in his Pardons and Remissions, as appears by Act, Jac. 1. cap 50 Jac 2 cap 73 Jac 3 cap 10 88 110 116, Jac 4 cap 96 97 Jac 6 Parl 8 cap 136 138. and order the pleading of a Pardon in some Cases, to be the Conviction of the Pleader.

XIII. The Parliament did likewise appoint his Domestic Officers, such as Almoner, Chamberlain, Master of the Household, Auditors of his Accounts; and his

Privy Counsellors and Officers of State were Named and Constituted in Parliament, as appears by Jac 3 cap 48 Jac 4 cap 16 28 92 Jac 6 Parl. 5 and Parl. 6, among the Unprinted Acts. Charles the I. agreed to all this in his first and second Parliaments, That a good and happy Government might in some measure supply his Majesty's Absence, Parl 2, Act 65.

P, S, It's hop'd this is sufficient to vindicate our Nation from the Imputation of Rebellion Chag'd upon us, not only by our own Hierarchies, and Prerogative Authors with the Common Herd of English Writers, but by one of the first Rank of that Nation, the late Earl of Clarendon in his Memoirs, which was Usber'd into the World by that superficial Piece of Sir Philip Warwicks, and followed by that dull and scurrilous Libel called Bishop Gu'hies Memoirs, to Vouch for the Authoritie of those ill grouded Reflections that the Earl hath cast upon our Country in General, and our greatest Families in particular, thro' the misinformations of men of that Kidney. To treat us thus, is a peice of the blackest Injustice that ever was done a Nation, who tho they stood up for their own Constitution against the Invasions of their Prince, yet when things came to the Extremity, as to his Life and Dignity; they as boldly stood up for his person and Family, as the prevailing party in England sought the Destruction of both, tho God was not pleas'd to bless us with Success; so that for one of our Bishops to Vouch such manifest Untruths, against his Country, as that they sold their King, &c, and to belie that Excellent prince, James Duke of Hamilton, as having received part of the Money, for which he was Sold; when the World knows he laid down his Life for him, ought to be Rank'd amongst those other peice of good Service, which we have heard already

already, that order of Men have done their Country, and comes out very sensibly as a prevailing Argument for the Kingdom of Scotland to Readmit them. This is a sufficient Proof of the Treatment our greatest Families and Princes of the Blood are to expect from our Scott Hierarchies, if they don't go the full length with them in Ruining the Country for not submitting to their Order. *James Duke of Hamilton*, and his Brother *D. William*, who are so scandalously abus'd by *Bp. Guthrie*, did either of 'em more for the Service of the King, and for the Episcopal Order, than all the Bishops of Scotland were able to do together; but being Men of Moderate Principles, and no Friends to Arbitrary Power, especially *D. James*; their Reputation is thus stabl'd, as Traitors to their Prince, (tho they both lost their Lives in the Cause) by Men who knew nothing of the Constitution of the Countrey whose Affairs they treat of; and in the preservation of which both these Dukes had so great an Interest. They had indeed both of 'em so fair an opportunity of advancing themselves to the Throne of Scotland, by espousing the Cause of the People against the Court, that their steadfast Adherence to the King was justly look'd upon to be a Prodigy of Loyalty; and *R. Charles the First* was so fully convinced of *D. James's* Honour, that when he was under an Accusation of aspiring to the Crown of Scotland, he trusted himself alone with him for several Nights in his Bed chamber: But such is the Malice and incurable Rancour of our high flown Prelatists, that they will needs disturb the *Majesty* of this Great Man with a Charge of Treason, tho he hid down his Head because he would not be a Traitor.

Since the Writing of what is above, I have seen a little Piece about the Union, writ by a Person of Quality of our own Countrey, which complains of the same Hardships that we have suffered since the Union of the two Crowns, and takes particular notice of one that is very remarkable, viz: That the late Lord *Hollis* (tho no personal Enemy to our Nation) yet when Ambassadour for *England* in *France*, procur'd that our Immunity at 50 *Sous* per Tun, to which other Foreigners were liable, should be taken off, and that *Scots* Ships should be made Liable to that Tax. This is one very pregnant instance to prove what I have before laid down, That our Nation has been unkindly us'd by the Court of *England* since the Union of the Crowns: For if my Lord *Hollis* had this Matter in his Instructions, the Court was directly chargeable with it; and if he had not, they were much to blame in not Censuring him for having exceeded his Instructions: But it's probable his Lordship would never have done so, since he was so Just to our Nation, That the Memoirs he hath left behind him, have done us more Right as to our Share in the publick Transactions during the Parliament Wars, than any thing that ever yet came from an *English* Pen. And indeed is a sufficient Vindication of our Honour from the Ignominious Imputation of Selling the King, which that Unnatural Libeller, Bishop *Gutery, has endeavour'd to fix upon us.*

But to return to the abovemention'd Piece, tho there be many things in it very well said, good Argument suggested for an Union in general, and the Objections against import of our Commodities into *England*, and their Merchants making use of our Shipping, plausibly answer'd from this one Topick,

That

That it lessens the Charges of the Consumers, as Freighters, which is a General Advantage to the Kingdom of *England*, yet I cannot but Wonder, considering the the parts and Quality of the Author, to write with so much Indifference as to the Preservation of our Civil and Ecclesiastical Constitution. Methinks one who has the Honour to wear a Coronet in *Scotland*, should stand a little more upon the Dignity of the *Scottish* Peerage, than to subject them to an Elective Vicissitude and Uncertainty of executing their Privilege of Legislature, whilst that of our Neighbours is fix'd and constant. Not that I am a Friend to any Hereditary power of Legislation, for where the requisite qualifications are wanting, I look upon it to be a hardship on Mankind, and inconsistent with the End of Government; but I know no reason why our *Scotts* Peers should be denied that Privilege if those of *England* enjoy it; for Equality in every thing, as much, as possible, is the best way to make an Union durable: For the same Reason, I cannot think it just, That any other Part of our Civil Constitution, should be made a Sacrifice to that of *England*, but for a valuable Equivalent; and much less that we should make a Surrender of the Consciences of all our Presbyterian Subjects to gratifie their Hierarchy. There are some perhaps who might not feel much of the bad Effects on't amongst their Northern Tenants and Highland Friends, but I am confident it might in time come to lessen the Jointures of their Lowland Ladies. And our Nobilities and Gentry on this side *Tay*, might in a few Years come to lose more by it in their Rentals, than the Importation of their Coals, Salt and Cattle into *England* would be able to balance. This would be a very effectual

Method to put the old Court Project, of turning all the Country on this side ~~forth~~ into a Hunting Field, (which some Men had a hand in attempting, when they sign'd Orders for killing people without a legal Trial) and then our Nobility and Gentry of those Counties, which are by far the most considerable in the Kingdom, might be Landlords and Tennants at all once, and go a Hunting for their Revenues where they could catch 'em. There are people in the World who have the Faculty of looking several ways at once, and if one aim miss, they are sure another will hit. I have heard that there were Letters intercepted betwixt some of our Prelates, and a certain Gentleman in the late King William's Reign, by which it appear'd, that there were those who made a threefold handle of standing up as Patrons for our Episcopal Clergy, that were outed for refusing to pray for K. William, &c. The first was, that they could by so doing make an Interest with the Church of England, and their Friends at Court, and tell them that they were the Supporters of the Hierarchy: 2. They could use it as an Argument with King William, that it was by their Interest the Episcopal party in Scotland were brought to live Peaceably under his Government: They could at the same time make their Court by it to the people at St. Germain's, and tell them, that 'twas by their Interest that so many of the Episcopal Clergy were kept from complying with the Usurpers. It will be very well if we have not some such Intrigues carried on now, for I think no *Seafmen* of any tollerable Observation can be ignorant, That the Episcopal Party in Scotland, who keep up a separate Worship from the establish'd Church there, are Enemies to the Revolution, and by


by consequence to the present Government: It's well enough known that their Bishops made the following Address to the late King James at the Revolution.

The Address of the Archbishops & Bishops of Scotland to the late King James, upon the News of the Prince of Orange's Undertaking, November the 10th, 1688. Vid. London Gazette, Numb. 2398.

May it please your most Sacred Majesty,

WE prostrate our selves to pay our most devout Thanks and Adoration to the Sovereign Majesty of Heaven & Earth, for preserving your Sacred Life and Person, so frequently exposed to the greatest hazards, & as often delivered, and you miraculously prospered with Glory and Honor, in defence of the Rights and Honour of Your Majesties August Brother, and of these Kingdoms; and that by his Merciful goodness the Raging of the Sea, and Madness of unreasonable Men, have been killed and calmed; And your Majesty, as the Darling of Heaven, peaceably Seated on the Throne of Your Royal Ancestors, whose Long, Illustrious & Unparallel'd Line, is the greatest Glory of this Your Ancient Kingdom.

We pay our most humble Gratitude to your Majesty for the Repeated Assurances of your Royal Protection to your National Church and Religion, as the Laws have Established them; which are very suitable to the Gracious Countenance, Encouragement and Protection Your Majesty was pleased to afford to our Church and Order, whilst we were happy in your Presence amongst us.

We magnifie the Divine Mercy in blessing Your Majesty with a Son: and us with a Prince, whom we pray Heaven may Bless and Preserve to  Your Royall Secretary

Scepter after You, and that he may Inherit with Your Dominions the illustrious and Heroick Vertues of his August and most Serene Parents.

We are amazed to hear of the danger of an Invasion from Holland, which excites our Prayers for an Universal Repentance to all Orders of Men, that God may yet spare his People, preserve your Royal Person, and prevent the Effusion of Christian Blood, and to give such Succels to your Majesties Arms, that all who invade your Majesties just and undoubted Rights, and disturb or Interrupt the Peace of your Realms, may be disappointed and clothed with Shame; So that on your Royal Head the Crown may still flourish.

As, by the Grace of God, we shall preserve in our selves a firm and unshaken Loyalty, so we shall be careful & zealous to promote in all your Subjects, an intrepid & stedfast Allegiance to Your Majestie, as an Essential part of their Religion, and of the Glorie of our Holy Profession, not doubting but that God in his great mercie, who hath so often preserved and delivered Your Majestie, will still preserve and deliver You, by giving You the Hearts of Your Subjects, and the Necks of Your Enemies. So Pray we, who in all Humilitie, are,

May it please Your most Sacred Majestie.

Your Majesties most humble, most Faithful, and most Obedient Subjects and Servants.

Edinburgh.

Nov. 2. 1688.

Signed by

The Lord Archbishop of St. Andrews,

The Lord Archbishop of Glasgow,

The Lord Bishop of Edinburgh,

The Lord Bishop of Galloway,

The Lord Bishop of Aberdeen,

The Lord Bishop of Dunkell,

The

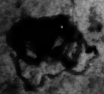
The Lord Bishop of Brekeeen,
The Lord Bishop of Orkney,
The Lord Bishop of Murray,
The Lord Bishop of Ross,
The Lord Bishop of Dunblane,
The Lord Bishop of the Isles.

And that they and their Party are not giv n to
change in that Matter. is evident enough from this,
That while King William was alive they would not
Pray for him expressly in their Meetings, but contented
themselves to pray for the King, without saying any
thing more; and in the same manner did the *Ja-*
cobites Drink their Masters Health: Since his Ma
jesty Died they found that Cant would not do, and
to Name the King in their Prayers would be too
bald, and therefore they have chang'd the Word
into that of Sovereign: If this be not mocking of
God and the Government, let any Man Judge. But
that which is still worse, all the young Men of that
Way who present themselves to the *Quondam* Bishops
for Ordination, were, during King James's Life,
oblig'd by those Prelates to take the Oath of Allegi-
ance to him, and since his Death they oblige them in
like manner to Swear to the pretended King James
the Eighth. This is known to be matter of Fact; and
therefore we dare refer it to the Judgement of the
English Bishops, whether it be proper, That such a
Party should be restor'd to the Conduct of Peoples
Consciences. It must be own'd, That if their Prayers
could have taken effect, Those Excellent Persons the
Bishops of *England*, who so seasonably stopp'd the
Current of King James's Arbitrary Power, by re-
fusing to Read his Declaration of Indulgence, might
by this Time have been Honour'd with a Crown

of Martyrdom, such of them at least as persevere & but they could never have enjoy'd their Mitres And since this is known to be the Temper of Scots Prelatical Party, who separate from our publick Worship, we hope it's enough to convince the Revolution Party of the Church of England, That it is not their Interest to have them restor'd. If it be said, That Men of better Principles may be preferr'd to our Bishopricks. We answer, That besides what has been said already against restoring that Order on any Account in our Nation, There are very few but known Jacobites, upon whom the doing so will lay an Obligation; for moderate Men of that Way make no scruple to comply with our present Establishment, there being nothing in it that frets their Conscience or makes them uneasy; Whereas the contrary will unavoidably happen to the Presbyterians, by Reimposing Bishops upon the Nation; and we have never ow'd so much to that order of Men, as to hazard a Rebellion, and the Ruine of our Peace and Trade for their sakes.

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